



M E M O R A N D U M

Date: February 12, 2021

To: California Law Enforcement Agencies

From: Mark Pazin, Chief of Cal OES Law Enforcement Division

Subject: Vaccine Access Enforcement Authorities

There is a compelling need to maintain order in the vaccination process, including safe and orderly access to vaccination sites, to ensure Californians can safely access vaccines during the COVID-19 pandemic. Concerns have been raised about the possibility that certain actors may seek to disrupt California's vaccination efforts, including by disrupting safe and orderly access to vaccination sites. This memorandum identifies enforcement authorities¹ (based on existing state statutes or local ordinances) that may assist law enforcement agencies with ensuring Californians' safe and orderly access to vaccine sites.

The State of California respects and fully supports individuals' right (protected by the U.S. and California Constitutions) to express any viewpoint, including opposition to its vaccination efforts, and to engage in other expression protected by the First Amendment and the California Constitution. The authorities below should be used only as necessary to maintain the safe and orderly functioning of California's vaccination efforts; they must not be used to suppress, chill, or otherwise take action against expression protected by the First Amendment or the California Constitution.

¹ This document does not identify every potential authority that may be applicable.

STATUTE/ORDER	TEXT/SUMMARY
California Civil Code	
Civil Code, §§ 3427 et seq. Commercial Blockade	See below for specific sections.
Civil Code, § 3427(a)	For this purpose, an “aggrieved” person or facility means: (1) A person physically present at a health care facility when a commercial blockade occurs whose access is obstructed or impeded. (2) A person physically present at a health care facility when a commercial blockade occurs whose health care is disrupted. (3) A health care facility where a commercial blockade occurs, its employees, contractors, or volunteers. (4) The owner of a health care facility where a commercial blockade occurs or of the building or property upon which the health care facility is located.
Civil Code, § 3427.1	It is unlawful, and constitutes the tort of commercial blockade for a person, alone or in concert with others, to intentionally prevent an individual from entering or exiting a health care facility by physically obstructing the individual's passage or by disrupting the normal functioning of a health care facility.
Civil Code, § 3427.2	A person or health care facility aggrieved by the actions prohibited by this title may seek civil damages from those who committed the prohibited acts and those acting in concert with them.
California Government Code	
Government Code, § 8665 Violation of Order	Any person who violates any of the provisions of this chapter or who refuses or willfully neglects to obey any lawful order or regulation promulgated or issued as provided in this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed one thousand dollars (\$1,000) or by imprisonment for not to exceed six months or by both such fine and imprisonment.

<p>Government Code, § 36900</p> <p>Violation of City Ordinance²</p>	<p>(a) Violation of a city ordinance is a misdemeanor unless by ordinance it is made an infraction. The violation of a city ordinance may be prosecuted by city authorities in the name of the people of the State of California or redressed by civil action.</p>
<p>Government Code, § 41601</p> <p>Suppression of riot, etc.;</p> <p>Equivalence to sheriff's powers and protection</p>	<p>For the suppression of riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions, and for the execution of all orders of the local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease, the chief of police has the powers conferred upon sheriffs by general law and in all respects is entitled to the same protection.</p>
<p>California Health and Safety Code</p>	
<p>Health & Safety Code, § 101029</p> <p>Enforcement of Local Health Officer's Orders</p>	<p>The sheriff of each county, or city and county, may enforce within the county, or the city and county, all orders of the local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease. Every peace officer of every political subdivision of the county, or city and county, may enforce within the area subject to his or her jurisdiction all orders of the local health officer issued for the purpose of preventing the spread of any contagious, infectious, or communicable disease.</p>
<p>Health and Safety Code, § 131082</p> <p>Refusal to Perform Duties</p>	<p>Every person charged with the performance of any duty under the laws of this state relating to the preservation of the public health, who willfully neglects or refuses to perform the same, is guilty of a misdemeanor.</p>
<p>California Penal Code</p>	
<p>Penal Code, § 69</p> <p>Obstruction</p>	<p>Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon the officer by law, or who knowingly resists, by the use of force or violence, the officer, in the performance of his or her duty, is punishable by a fine not exceeding ten thousand dollars (\$10,000), or</p>

² Each local jurisdiction may have their own ordinances regarding actions that disturb the peace, harassment of individuals approaching or leaving clinics or buffer zones.

	<p>by imprisonment pursuant to subdivision (h) of Section 1170, or in a county jail not exceeding one year, or by both such fine and imprisonment.</p>
<p>Penal Code, § 148(a)(1) Obstruction</p>	<p>Every person who willfully resists, delays, or obstructs any public officer, peace officer, or an emergency medical technician, as defined in Division 2.5 (commencing with Section 1797) of the Health and Safety Code, in the discharge or attempt to discharge any duty of his or her office or employment, when no other punishment is prescribed, shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.</p> <p>Emergency Medical Technician, as defined by Health and Safety Code sections 1797.80 and 1797.82, means an individual trained in all facets of basic life support, limited advance life support or advance life support according to standards prescribed by Health and Safety Code sections 1797 et seq. and who has a valid certificate issued pursuant to these same statutory provisions.</p>
<p>Penal Code, § 182(a)(5) Conspiracy</p>	<p>(a) If two or more persons conspire: ... (5) To commit any act that is injurious to the public health ... [are punishable as follows ...]</p>
<p>Penal Code, § 241 Assault of Healthcare & Emergency Workers</p>	<p>(a) An assault is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment. ... (c) When an assault is committed against the person of a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care outside a</p>

	<p>hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the assault is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year, or by both the fine and imprisonment.</p>
<p>Penal Code, § 243 Battery</p>	<p>(a) A battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding six months, or by both that fine and imprisonment.</p> <p>(b) when a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a nonsworn employee of a probation department engaged in the performance of his or her duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, lifeguard, security officer, custody assistant, process server, traffic officer, code enforcement officer, animal control officer, or search and rescue member engaged in the performance of his or her duties, nonsworn employee of a probation department, or a physician or nurse engaged in</p>

	<p>rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p> <p>(c)(1) When a battery is committed against a custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, or a nonsworn employee of a probation department engaged in the performance of his or her duties, whether on or off duty, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a nonsworn employee of a probation department, custodial officer, firefighter, emergency medical technician, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim, the battery is punishable by a fine of not more than two thousand dollars (\$2,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, or by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, or two or three years.</p>
<p>Penal Code, § 404.6</p> <p>Inciting Riot</p>	<p>(a) Every person who with the intent to cause a riot does an act or engages in conduct that urges a riot, or urges others to commit acts of force or violence, or the burning or destroying of property, and at a time and place and under circumstances that produce a clear and present and immediate danger of acts of force or violence or the burning or destroying of property, is guilty of incitement to riot.</p> <p>(b) Incitement to riot is punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment.</p>
<p>Penal Code, §§ 407 and 408</p>	<p>Whenever two or more persons assemble together to do an unlawful act, or do a lawful act in a violent, boisterous, or tumultuous manner, such assembly is an unlawful assembly.</p>

<p>Unlawful Assembly</p>	<p>Every person who participates in any rout or unlawful assembly is guilty of a misdemeanor.</p>
<p>Penal Code, § 409 Riot and Unlawful Assembly</p>	<p>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.</p>
<p>Penal Code, § 415 Disturbing Public Peace</p>	<p>Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine:</p> <p>(1) Any person who unlawfully fights in a public place or challenges another person in a public place to fight.</p> <p>(2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.</p> <p>(3) Any person who uses offensive words in a public place which are inherently likely to provoke an immediate violent reaction.</p>
<p>Penal Code, § 416(a) Failure to Disperse</p>	<p>If two or more persons assemble for the purpose of disturbing the public peace, or committing any unlawful act, and do not disperse on being desired or commanded so to do by a public officer, the persons so offending are severally guilty of a misdemeanor.</p>
<p>Penal Code, § 422 Criminal Threats</p>	<p>(a) Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment in the state prison.</p>

	<p>(b) For purposes of this section, "immediate family" means any spouse, whether by marriage or not, parent, child, any person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who, within the prior six months, regularly resided in the household.</p> <p>(c) "Electronic communication device" includes, but is not limited to, telephones, cellular telephones, computers, video recorders, fax machines, or pagers. "Electronic communication" has the same meaning as the term defined in Subsection 12 of Section 2510 of Title 18 of the United States Code.</p>
<p>Penal Code, § 594 Malicious Mischief – Destruction of Government Property</p>	<p>(a) Every person who maliciously commits any of the following acts with respect to any real or personal property not his or her own, in cases other than those specified by state law, is guilty of vandalism:</p> <p>(1) Defaces with graffiti or other inscribed material. (2) Damages. (3) Destroys.</p> <p>Whenever a person violates this subdivision with respect to real property, vehicles, signs, fixtures, furnishings, or property belonging to any public entity, as defined by Section 811.2 of the Government Code, or the federal government, it shall be a permissive inference that the person neither owned the property nor had the permission of the owner to deface, damage, or destroy the property.</p>
<p>Penal Code, § 602 Trespass</p>	<p>(f) A person who willfully commits a trespass by following acts is guilty of a misdemeanor: Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town, or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard, or notice is intended to indicate or designate a road or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property</p>

	<p>belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention to it.</p> <p>(k) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent, or the person in lawful possession.</p>
<p>Penal Code, § 602.11</p> <p>Intentionally Preventing Entrance to Health Care Facility</p>	<p>Any person, alone or in concert with others, who intentionally prevents an individual from entering or exiting a health care facility, place of worship, or school by physically detaining the individual or physically obstructing the individual's passage shall be guilty of a misdemeanor punishable by imprisonment in the county jail, or a fine of not more than two hundred fifty dollars (\$250), or both, for the first offense; imprisonment in the county jail for not less than five days and a fine of not more than five hundred dollars (\$500) for the second offense; and imprisonment in the county jail for not less than 30 days and a fine of not more than two thousand dollars (\$2,000) for a third or subsequent offense. However, the court may order the defendant to perform community service, in lieu of any fine or any imprisonment imposed under this section, if it determines that paying the fine would result in undue hardship to the defendant or his or her dependents.</p> <p>“Physically” does not include speech.</p> <p>“Person” does not include an officer, employee, or agent of the health care facility, or a law enforcement officer, acting in the course of his or her employment.</p>
<p>Penal Code, § 646.9</p> <p>Stalking/ Harassing</p>	<p>(a) Any person who willfully, maliciously, and repeatedly follows or willfully and maliciously harasses another person and who makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her immediate family is guilty of the crime of</p>

	stalking, punishable by imprisonment in a county jail for not more than one year, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment, or by imprisonment in the state prison.
Penal Code, § 11413 Terrorizing	<p>(a) Any person who explodes, ignites, or attempts to explode or ignite any destructive device or any explosive, or who commits arson, in or about any of the places listed in subdivision (b), for the purpose of terrorizing another or in reckless disregard of terrorizing another is guilty of a felony, and shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for three, five, or seven years, and a fine not exceeding ten thousand dollars (\$10,000).</p> <p>(b) Subdivision (a) applies to the following places:</p> <p>(1) Any health facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, or any place where medical care is provided by a licensed health care professional.</p>