

Memorandum

TO: ALL DEPARTMENT PERSONNEL **FROM:** Anthony Mata
Chief of Police

SUBJECT: LOITERING FOR THE PURPOSE **DATE:** July 28, 2022
OF ENGAGING IN A
PROSTITUTION OFFENSE

APPROVED

Memo# 2022-036

BACKGROUND

On July 1, 2022, Governor Newsom signed [Senate Bill 357 \(link\)](#) repealing [Penal Code section 653.22 \(link\)](#) – Loitering for the Purpose of Engaging in a Prostitution Offense. In addition, modifications were made to [Penal Code section 653.23 \(link\)](#) – Supervising or Aiding a Prostitute.

ANALYSIS

The repeal goes into effect on January 1, 2023. However, effective immediately, Department members will no longer use 653.22 PC as reasonable suspicion for a detention or probable cause for an arrest.

In addition, make note of the following changes to Penal Code section 653.23. The circumstances described under subsection (b) and (c) may no longer be used to articulate the reasonable suspicion for a detention or probable cause for an arrest for the crime of Supervising or Aiding a Prostitute. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

(a) It is unlawful for ~~any~~ a person to do either of the following:

- (1) Direct, supervise, recruit, or otherwise aid another person in the commission of a violation of subdivision (b) of Section ~~647 or subdivision (a) of Section 653.22.~~ 647.
- (2) Collect or receive all or part of the proceeds earned from an act or acts of prostitution committed by another person in violation of subdivision (b) of Section 647.

~~(b) Among the circumstances that may be considered in determining whether a person is in violation of subdivision (a) are that the person does the following:~~

- ~~(1) Repeatedly speaks or communicates with another person who is acting in violation of subdivision (a) of Section 653.22.~~
- ~~(2) Repeatedly or continuously monitors or watches another person who is acting in violation of subdivision (a) of Section 653.22.~~
- ~~(3) Repeatedly engages or attempts to engage in conversation with pedestrians or motorists to solicit, arrange, or facilitate an act of prostitution between the pedestrians or motorists and another person who is acting in violation of subdivision (a) of Section 653.22.~~

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~~(4) Repeatedly stops or attempts to stop pedestrians or motorists to solicit, arrange, or facilitate an act of prostitution between pedestrians or motorists and another person who is acting in violation of subdivision (a) of Section 653.22.~~

~~(5) Circles an area in a motor vehicle and repeatedly beckons to, contacts, or attempts to contact or stop pedestrians or other motorists to solicit, arrange, or facilitate an act of prostitution between the pedestrians or motorists and another person who is acting in violation of subdivision (a) of Section 653.22.~~

~~(6) Receives or appears to receive money from another person who is acting in violation of subdivision (a) of Section 653.22.~~

~~(7) Engages in any of the behavior described in paragraphs (1) to (6), inclusive, in regard to or on behalf of two or more persons who are in violation of subdivision (a) of Section 653.22.~~

~~(8) Has been convicted of violating this section, subdivision (a) or (b) of Section 647, subdivision (a) of Section 653.22, Section 266h, or 266i, or any other offense relating to or involving prostitution within five years of the arrest under this section.~~

~~(9) Has engaged, within six months prior to the arrest under subdivision (a), in any behavior described in this subdivision, with the exception of paragraph (8), or in any other behavior indicative of prostitution activity.~~

~~(c) The list of circumstances set forth in subdivision (b) is not exclusive. The circumstances set forth in subdivision (b) should be considered particularly salient if they occur in an area that is known for prostitution activity. Any other relevant circumstances may be considered. Moreover, no one circumstance or combination of circumstances is in itself determinative. A violation of subdivision (a) shall be determined based on an evaluation of the particular circumstances of each case.~~

~~(d) (b) Nothing in this section shall preclude the prosecution of a suspect for a violation of Section 266h or 266i or for any other offense, or for a violation of this section in conjunction with a violation of Section 266h or 266i or any other offense.~~

Senate Bill 357 does not modify the following offenses related to the act of prostitution:

- [647\(a\) PC \(link\)](#) – Soliciting to engage in or engaging in a lewd act in public
- [647\(b\) PC \(link\)](#) – Soliciting to engage in or engaging in prostitution
- [266h PC \(link\)](#) – Pimping
- [266i PC \(link\)](#) – Pandering

ORDER

Effective immediately, all Department personnel shall adhere to the law changes that will be enacted by Senate Bill 357, as described above. This order shall remain effect until January 1, 2023, at which time it will be superseded by state law.



Anthony Mata
Chief of Police

AM:SD:RG