



California State University, Los Angeles
Department of Public Safety

NUMBER: IV-4 APPROVED: _____
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EFFECTIVE: February 1, 2004

SUPERSEDES: 1/1/2001 Reviewed/Revised: _____
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SUBJECT: **Private Person (Citizen) Arrest**

I. PURPOSE:

To provide guidelines for handling citizen arrests in accordance with legal requirements.

II. POLICY:

Citizen arrests shall made in an efficient manner and documented in detail within the department's records management system (ARMS).

III. DEFINITIONS:

- A. Arrest. To deprive a person of his/her liberty by legal authority (Section 834 PC).
- B. Private Person. Any person not defined as a peace officer in Chapter 4.5 of the California Penal Code.

IV. PROCEDURES:

- A. The duties of a police officer in any private person arrest includes the following:
 - 1. Maintain control and order at the scene;
 - 2. Contact and request watch commander presence, if not already on scene;
 - 3. Determine the facts and document the incident within a department written report;
 - 4. Take custody of the person lawfully arrested (any evidence is maintained by the citizen making the arrest and this fact shall be noted in written report); and
 - 5. Process the arrested person as required by department policy.
 - 6. Officers may refuse any arrest that they reasonably believes is unlawful.
- B. When completing documentation:
 - 1. Include the words used by the private person making the arrest;
 - 2. Include any statement made by the person arrested;
 - 3. Provide all details known and the names of any witnesses present.

C. Penal Code Sections.

834. An arrest is taking a person into custody, in a case and in the manner authorized by law. An arrest may be made by a peace officer or by a private person.
837. A private person may arrest another:
1. For a public offense committed or attempted in his presence.
 2. When the person arrested has committed a felony, although not in his presence.
 3. When a felony has been in fact committed, and he has reasonable cause for believing the person arrested to have committed it.
838. A magistrate may orally order a peace officer or private person to arrest any one committing or attempting to commit a public offense in the presence of such magistrate.
839. Any person making an arrest may orally summon as many persons as he deems necessary to aid him therein.
841. The person making the arrest must inform the person to be arrested of the intention to arrest him, of the cause of the arrest, and the authority to make it, except when the person making the arrest has reasonable cause to believe that the person to be arrested is actually engaged in the commission of or an attempt to commit an offense, or the person to be arrested is pursued immediately after its commission, or after an escape. The person making the arrest must, on request of the person he is arresting, inform the latter of the offense for which he is being arrested.
847. A private person who has arrested another for the commission of a public offense must, without unnecessary delay, take the person arrested before a magistrate, or deliver him or her to a peace officer. There shall be no civil liability on the part of, and no cause of action shall arise against, any peace officer or federal criminal investigator or law enforcement officer described in subdivision (a) or (d) of Section 830.8, acting within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest when any one of the following circumstances exist:
- (a) The arrest was lawful or when the peace officer, at the time of the arrest had reasonable cause to believe the arrest was lawful.
 - (b) When the arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested.
 - (c) When the arrest was made pursuant to the requirements of Section 142, 838, or 839.

Further direction related to 837 P.C.:

Officers, who are physically present at the time an allegation is presented that a crime has been committed, who know the allegation to be false based on first-hand knowledge, may refuse to accept any arrest attempted under 837 P.C. (Citizen's arrest). These incidents will be documented in an incident report.

849. (a) When an arrest is made without a warrant by a peace officer or private person, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the arrested person shall be laid before such magistrate.
- (b) Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:
- (1) He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.
 - (2) The person arrested was arrested for intoxication only, and no further proceedings are desirable.
 - (3) The person was arrested only for being under the influence of a controlled substance or drug and such person is delivered to a facility or hospital for treatment and no further proceedings are desirable.
- (c) Any record of arrest of a person released pursuant to paragraphs (1) and (3) of subdivision (b) shall include a record of release. Thereafter, such arrest shall not be deemed an arrest, but a detention only.
- 490.5 (f) (1) A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken merchandise from the merchant's premises.

A person employed by a library facility may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by a library facility has probable cause to believe the person to be detained is attempting to unlawfully remove or has unlawfully removed books or library materials from the premises of the library facility.

(2) In making the detention a merchant, theater owner, or a person employed by a library facility may use a reasonable amount of non-deadly force necessary to protect himself or herself and to prevent escape of the person detained or the loss of tangible or intangible property.

(3) During the period of detention any items which a merchant or theater owner, or any items which a person employed by a library facility has probable cause to believe are unlawfully taken from the premises of the merchant or library facility, or recorded on theater premises, and which are in plain view may be examined by the merchant, theater owner, or person employed by a library facility for the purposes of ascertaining the ownership thereof.

(4) A merchant, theater owner, a person employed by a library facility, or an agent thereof, having probable cause to believe the person detained was attempting to unlawfully take or has taken any item from the premises, or was attempting to operate a video recording device within the premises of a motion picture theater without the authority of the owner of the theater, may request the person detained to voluntarily surrender the item or recording. Should the person detained refuse to surrender the recording or item of which there is probable cause to believe has been recorded on or unlawfully taken from the premises, or attempted to be recorded or unlawfully taken from the premises, a limited and reasonable search may be conducted by those authorized to make the detention in order to recover the item. Only packages, shopping bags, handbags or other property in the immediate possession of the person detained, but not including any clothing worn by the person, may be searched pursuant to this subdivision. Upon surrender or discovery of the item, the person detained may also be requested, but may not be required, to provide adequate proof of his or her true identity.

V. APPENDICES: None.