



**California State University, Los Angeles**  
**Department of Public Safety**

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SUPERSEDES: 1/28/2004 Reviewed/Revised: January 26, 2010

SUBJECT: **Arrest Procedures and Legal Process**

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I. PURPOSE:

To clarify the duties and responsibilities of a Police Officer making an arrest with or without a warrant and the specific Penal Code sections governing these situations, and to establish procedures for alternatives to a physical arrest.

II. POLICY:

It is the policy of this Department to abide by the state code in relation to service of legal process and to seek out alternatives to arrest whenever feasible.

III. DEFINITIONS:

- A. Arrest. To deprive a person of his/her liberty by legal authority
- B. Arresting Officer. A sworn law enforcement officer who takes a person into custody, with or without a warrant.
- C. Arrest Warrant. A written order of the court which is made on behalf of the State, or United States, and is based upon a complaint issued pursuant to state and/or court rule, and which commands law enforcement officer to arrest a person and bring him before magistrate.
- D. Asset Forfeiture. Loss of some right or property as a penalty for some illegal act. Forfeiture of property (including money, securities, and real estate) is one of the penalties provided for under certain federal and state criminal statutes. Such forfeiture provisions apply to property used in the commission of a crime under the particular statutes, as well as property acquired from the proceeds of the crime.
- E. Civil Arrest. A civil arrest is made pursuant to a written order by a judge of a competent jurisdiction in a civil action or proceeding.
- F. Civil Process. Those writs, summonses, mandates or other process issued from a court of law or equity, pertaining to a cause of action of a civil nature. The term includes original, intermediate and final process to be served by the agency in any action involving civil litigants.
- G. Criminal Process. Writs, summonses, mandates, warrants, or other process issued from a court of law compelling a person to answer for a crime. The term also includes process issued to aid in crime suppression, such as search warrants.

- H. Legal Process. Any item of civil or criminal process, whether original, intermediate or final, that is valid on its face and is to be served or executed by the law enforcement agency.
- I. Protective Order. Order issued by court in domestic violence or abuse cases to, for example, protect spouse from physical harm by other spouse or child from abuse by parent(s). Such order may be granted immediately by court in cases where immediate and present danger of violence or abuse is shown. Such emergency orders are granted in ex parte type proceedings and are temporary in duration pending full hearing by court with all involved parties present.
- J. Restraining Order. An order in the nature of an injunction which may issue upon filing of an application for an injunction forbidding the defendant from doing the threatened act until a hearing on the application can be had.
- K. Search Warrant. An order in writing, issued by a justice or other magistrate, in the name of the state, directed to a sheriff, constable, or other officer, authorizing him to search for and seize any property that constitutes evidence of the commission of a crime, contraband, the fruits of crime, or things otherwise criminally possessed; or, property designed or intended for use or which is or has been used as the means of committing a crime.
- L. Service. The delivery of any item of civil process that is complete with the act of delivery and does not require physical or legal seizure of a person or thing.
- M. Subpoena. A command to appear at a certain time and place to give testimony upon a certain matter. A subpoena duces tecum requires production of books, papers and other things. Subpoenas in federal criminal cases are governed by Fed.R.Crim.p.17, and in civil cases by Fed.R.Civil.p.45.
- N. Summons. Writ or process directed to the Sheriff or other proper officer, requiring him to notify the person named that an action has been commenced against him in the court from where the process issues, and that he is required to appear on a day named, and answer the complaint in such action. It is used in instances of low risk, where the person will not be required to appear at a later date.
- O. Sworn Officer. A person who is granted those general peace officer powers prescribed by constitution, statute, or ordinance in the jurisdiction, including those persons who possess authority to make a full custody arrest for limited or specific violations of law within the same jurisdiction.
- P. Temporary Restraining Order. An emergency remedy of brief duration which may issue only in exceptional circumstances and only until the trial court can hear arguments or evidence as the circumstances require, on the subject matter of the controversy and otherwise determine what relief is appropriate.
- Q. Writ. A written court order or a judicial process, directing that a sheriff or other judicial officer do what is commanded by the writ; or giving authority and commission to have it done.

#### IV. PROCEDURES:

- A. Applicable State Codes -California Penal Code Sections that address arrests with warrants.
  - 1. P.C. 815 states that at the time of issuance a warrant will indicate the name of the defendant, time and location issued and be signed by a magistrate. At the time of issuance the magistrate shall fix a reasonable bail.

2. P.C. 816 states that a warrant of arrest shall be directed generally to any peace officer, and when a warrant of arrest has been delivered to a peace officer and the person named in the warrant is in custody, the warrant may be executed by the peace officer.
3. P.C. 817 states that when a declaration of probable cause is made by a peace officer, the magistrate if satisfied that there exists probable cause that the offense has been committed and that the defendant described committed the offense, shall issue a warrant of probable cause for arrest of the defendant.
4. P.C. 817(g) states that an original warrant of probable cause for arrest or the duplicate original warrant shall be sufficient for booking a defendant into custody.
5. P.C. 817(h) states that once the defendant named in the warrant for arrest has been taken into custody, the agency that obtained the warrant shall file a certificate of service with the clerk of the issuing court. The certificate of service shall contain all of the following: date and time of service; name of defendant arrested; location of arrest; and the location where the defendant is incarcerated.
6. P.C. 818 states that in any case in which a peace officer serves upon a person a warrant of arrest for a misdemeanor offense under the Vehicle Code or under any local ordinance reference operation of a motor vehicle, and where no written promise to appear has been filed and the warrant states on its face that a citation may be issued in lieu of physical arrest, the peace officer may, instead of taking the person before a magistrate, prepare a notice to appear and release the person on his promise to appear.
7. P.C. 827.1 states that a person who is specified in a warrant of arrest for a misdemeanor offense may be released upon the issuance of a citation, in lieu of physical arrest unless one of the following conditions exists:
  - a. The misdemeanor cited in the warrant involves violence;
  - b. The misdemeanor cited in the warrant involves a firearm;
  - c. The misdemeanor cited in the warrant involves resisting arrest;
  - d. The misdemeanor cited in the warrant involves giving false information to a peace officer;
  - e. The person arrested is a danger to himself or others due to intoxication.
  - f. The person requires medical examination or medical care or is otherwise unable to care for his own safety;
  - g. The person has other ineligible charges pending against him;
  - h. There is reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be endangered by the release of the person.
  - i. The person refuses to sign the notice to appear.
  - j. The person cannot provide satisfactory evidence of personal identification.

- k. The warrant of arrest indicates that the person is not eligible to be released on a citation.
8. P.C. 842 states that an arrest by a peace officer acting under a warrant is lawful even though the officer does not have the warrant in his possession at the time of the arrest, but if the person arrested requests it, the warrant shall be shown to him as soon as practicable.
9. P.C. 848 states that an officer making an arrest, in obedience to a warrant, must proceed with the person arrested as commanded by the warrant or as provided by law.

B. California Penal Code Sections that address arrests without a warrant.

1. P.C. 836 states that a peace officer may arrest a person in obedience to a warrant or without a warrant, may arrest a person whenever any of the following circumstances occur:
  - a. The officer has probable cause to believe that the person to be arrested has committed a public offense in the officer's presence.
  - b. The person arrested has committed a felony, although not in the officer's presence.
  - c. The officer has probable cause to believe that the person to be arrested has committed a felony, whether or not a felony, in fact, has been committed.
2. P.C. 849(a) states that 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, and a complaint stating the charge against the arrested person shall be laid before such magistrate. 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 [Refer to IV-4, Private Person Citizen Arrest, written directive].
3. P.C. 849(b) states that any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:
  - a. He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.
  - b. The person arrested was arrested for intoxication only, and no further proceedings are desirable.
  - c. 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.
4. P.C. 853.6 states that in any case in which a person is arrested for an offense declared to be a misdemeanor, including a violation of any city or county

ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be released according to the procedures set forth in this chapter. If the person is released, the officer or superior shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court.

C. Arrest with and without a warrant

1. When a Police Officer stops and detains a person, and as a result of a warrant check, determines the person has an outstanding warrant, the officer shall complete the following actions:
  - a. Determine that the person described in the warrant and the subject in custody are one and the same.
  - b. Determine if the warrant is available for service. Out of the immediate area agencies may not want to send an abstract for booking purposes due to the distance involved and the type of crime for which the warrant has been issued.
  - c. Upon receipt of the warrant abstract, the person should be taken into custody and taken before the nearest or most accessible magistrate. If a magistrate is not available, the officer must take the arrestee to the county jail for booking and posting of bail, or hold pending appearance before a magistrate.
2. The University Police Department is not authorized under Section 1269b of the Penal Code to accept bail for arrestees or to cite and release persons arrested under a warrant.

D. Legal Process.

1. Records.
  - a. CSLA Police Department does not receive original warrants, civil or criminal. Original copies are forwarded to Los Angeles Police Department as a matter of procedure.
  - b. Copies of warrants and processes may be obtained but do not act as original documents.
  - c. In the event any original warrants or civil process documents are received, a written report will be established through ARMS by the investigating officer. Warrants obtained by members of this department will be entered into the CLETS system by staff of the Los Angeles County Superior Court. However, the investigating officer will attach a copy of the arrest warrant to the report, which shall include:
    - 1) date and time received;
    - 2) type of legal process, civil or criminal;
    - 3) nature of document;
    - 4) source of document;
    - 5) name of plaintiff/complainant or name of defendant/respondent;
    - 6) officer assigned for service (all cases will be assigned to

- Investigations Unit);
  - 7) date of assignment (date assigned/forwarded to Investigations);
  - 8) court docket number; and
  - 9) date of service due or required by.
- d. In the event the warrant is not immediately and personally served on a suspect, a copy of the warrant will be placed in the Warrant Book within dispatch so that attempts may be made at a later time by officers. Additionally, a copy of the active warrant will be placed within the patrol briefing book. If, after the warrant is not served in the required time, the warrant will be removed from both the Warrant Book in dispatch, as well as the patrol briefing book.
2. Warrants from other jurisdictions.
- a. This Department does not receive or serve warrants from other jurisdictions.
  - b. If an outside agency has a warrant they wish to serve on this campus they will contact this Department for assistance in the service of the warrant. They will serve the warrant and take custody of the suspect.
  - c. Our responsibility is to facilitate the service of legal process in a manner that is least disruptive to the University.
3. Service of warrants.
- a. Arrest warrants will be executed by sworn peace officers only.
  - b. Warrants obtained in California are maintained in CLETS, an automated warrant system.
  - c. When an individual is contacted, the officer will have Dispatch confirm through the system that a valid warrant is outstanding.
  - d. Officers will utilize a print out of a working paper that indicates that the warrant is valid and outstanding. This paper indicates the offense, bail amount, and warrant type (bench warrant, traffic, criminal).
  - e. If a valid warrant is confirmed, the individual will be taken into custody and the service of the warrant will be documented in an Arrest Report. This report will indicate the date, time and location of the arrest, information on the suspect including name, date of birth and social security number.
  - f. A record on the execution or attempted service of all warrants or any legal process shall be maintained through ARMS (once service is made/attempted). This will be accomplished through a supplemental report, which includes:
    - 1) date and time service was executed/attempted;
    - 2) name of officer(s) executing/attempting service;
    - 3) name of person on whom legal process was served/attempted;

- 4) method of service and/or reason of non-service; and
  - 5) address (location) of service/attempt.
4. Execution of Criminal Process.
    - a. Officers will execute only traffic and criminal warrants. The only exception to this is civil restraining orders.
    - b. Execution of Department warrants outside of this jurisdiction will be determined on a case by case basis, depending on the distance, crime, and University needs.
    - c. When serving a warrant outside of this jurisdiction, the agency will be notified that we are going to serve a warrant in their jurisdiction, and a request will be made to have a unit from their agency assist.
    - d. Individuals arrested outside of this jurisdiction will be brought back to Los Angeles court system. If a warrant is served outside of the immediate area, the arrestee will be transported to a local facility until transport can be made.
  5. Service of Civil Process Documents, Restraining, and Protective Orders.
    - a. The following are three types of restraining/protective orders:
      - 1) Emergency Protective Order is obtained by a peace officer from superior court by phone;
      - 2) Civil Court Restraining Orders, are obtained by a victim from the civil court; and
      - 3) Criminal Stay-Away Orders, pursuant to Penal Code Section 136.2 are issued by the criminal court.
    - b. All three of these protective orders are enforceable in any county no matter where issued. These orders remain valid regardless of the actions of the protected person. For example, if the protected person allows the restrained party back into a residence, the order still remains valid.
    - c. Request Emergency Protective Orders when appropriate:
      - 1) The Family Code Section 6241 requires that at least one judge or commissioner be reasonably available to orally issue, by phone or otherwise, an ex parte Emergency Protective Order when a law enforcement officer asserts reasonable grounds to believe that a person is in immediate and present danger.
      - 2) Officers may request an Emergency Protective Order whether or not the suspect is present or has been arrested.
    - d. Requesting Emergency Protective Order.
      - 1) Officer shall contact the judge, commissioner, or referee designated to be on-call to issue Emergency Protective Orders by telephone or otherwise and assert grounds for belief that the order is appropriate.

- 2) Upon oral issuance of the order by the on-call judge, the officer requesting the order shall reduce it to writing, using the Judicial Council Form 1295.90, and sign the order.
  - 3) Issued Orders:
    - The officer shall serve a copy of the Emergency Order on the restrained party, if the party can be reasonably located.
    - The officer shall give a copy of the Emergency Order to the protected party.
    - The officer, who requested the Emergency Order while on duty, shall carry a copy of the order.
    - A copy of the Emergency Order shall be filed with the court as soon as practical after issuance.
    - An Emergency Protective Order is valid for five court days after the day of issuance, but never longer than seven calendar days following the day of issuance.
- e. Verification of Protective Orders.
- 1) Penal Code Section 13710 requires law enforcement agencies to maintain a complete and systematic record of all Protection Orders.
  - 2) Whenever a complainant advises an officer of the existence of a Protective Order, the officer should ascertain:
    - Whether a Protective Order is on file with the Department and if the complainant has a copy of the order in their possession;
    - The Protective Order is still valid as to duration/time (if there is no expiration date on the order, the order is valid three years from the date of issuance, with the exception of permanent orders issued pursuant to a divorce);
    - If proof of service or prior notice exists or that the suspect was in court when the order was made; and
    - The terms of the Protective Order.
- f. Arrest Criteria and Enforcement Procedures in reference Protective Orders.
- 1) A violation of a Protective Order is a misdemeanor under Penal Code Section 166 and 273.6(a) and may be a felony, under Penal Code Section 273.6(d), 646.9 or 136.
  - 2) An arrest shall be made when there is reasonable cause to believe the subject of the Protective Order has violated the order and any of the following conditions are met:
    - The existence of the order and proof of the service on the suspect has been verified by the officer;
    - The complainant produces a valid copy of the order bearing the file stamp of a court and a proof of service on the subject;
    - The existence of the order has been verified by the officer (no proof of service is required if the order reflects that the suspect was personally present in court when the order was made); or



- The existence of the order has been verified, and there is proof that the suspect has previously been admonished or served a copy of the order.
- 3) When the officer verifies that a Protective Order exists, but cannot verify proof of service or prior knowledge of order by suspect, the officer should:
- Inform the subject of the terms of the order;
  - Admonish the subject of the order, that the suspect is now on notice and that the violation of the order will result in an arrest (if the suspect continues to violate the order after being advised of the terms, an arrest should be made);
  - If the suspect complies after admonishment of the terms, the officer shall make a retrievable report pursuant to Penal Code Section 13730(c) showing the suspect was admonished of the terms of the order, the name of the admonishing officer, time and date. The Department's copy of the Protective Order will be updated to reflect the admonishment information.
- g. In the event the suspect has left the scene of the incident, an investigation should be made to determine if a crime has been committed. Penal Code Sections 13730(c) and 13701(i) requires that a retrievable report shall be made and complainant shall be advised of the follow-up criminal procedures and case number of the report.
- h. Protective Order Not Verifiable.
- 1) When the victim is not in possession of the Protective Order, and/or in case of computer error, officers may not be able to confirm the order's validity.
  - 2) Penal Code Section 13730(c) requires that an officer shall write a report, give the victim the police report number and direct the victim to contact Investigations for follow-up information.
  - 3) When an order is not verifiable through the verification procedures, officer shall advise the victim of the right to make a private person's arrest for the violation of the Protective Order.

E. Alternatives to arrest.

1. California State University Los Angeles Police Officers may exercise alternatives to arrest based on the individual circumstances of each situation. Alternatives to a custodial arrest are utilized by the officer with discretion, taking into consideration the severity of the crime or violation and also considering the conduct of the suspect and the suspect's past criminal history.
2. When possible or appropriate, officers are encouraged to exercise alternatives to physical arrest.
3. Some alternatives are as follows:
  - a. Verbal warning (provided the violation is minor);

- b. Referral to Student Affairs for student code of conduct violations;
  - c. Infraction ticket;
  - d. Release to parents (if juvenile);
  - e. Referral to social services; and/or
  - f. Referral to authority within residential housing.
4. Officers will use discretion when selecting the appropriate course of action in each situation, taking into account the person's past history, age, physical and psychological state at the time of the incident, attitude, and other extenuating circumstances.
  5. If there is a victim in the case, the officer will consider and honor as much as possible the victim's preference for alternative or an arrest, except for domestic violence cases, where an alternative may not be the appropriate course of action.
  6. If a question arises concerning the use of an alternative, officers should contact the watch commander to resolve the matter.

F. Procedures for alternatives to arrest:

1. Oral/Written warning:
  - a. May be issued for misdemeanor or petty offenses;
  - b. Document using a Field Interview Card (FI card) and notation in ARMS; and
  - c. Make a referral if appropriate.
  - d. Written warnings for traffic offenses will be done through use of a Field Release Citation.
2. Referral to Student Affairs office, via a written memorandum approved by the watch commander (the supervisor of Investigations and command level may send notice to Student Affairs as they determine appropriate).
  - a. Officer:
    - 1) Use as an alternative to arrest with the watch commander's approval.
    - 2) Indicate a referral to Student Affairs in the body of the Incident/Offense report, if a report is written.
    - 3) Ensure the incident is documented within ARMS.
  - b. Watch Commander:
    - 1) Approve and forward with comments, as needed, to Investigations;
    - 2) Advise Student Affairs, the on-duty Command Officer and the Chief of Police immediately by telephone or in person of any incidents involving sensitive issues or having exigent circumstances.
  - c. Investigations:
    - 1) Review the case and the referral;
    - 2) Meet with Student Affairs if necessary to discuss the incident; and

- 3) Provide feedback to officers about the disposition of the referral, if known.

G. Criminal Justice and Social Service Diversion Programs.

1. A social service diversion program is any procedure or action that substitutes:
  - a. non-entry for official entry into the justice process;
  - b. the suspension of criminal or juvenile proceedings for other processes;
  - c. referral to a non-justice agency; or
  - d. a non-confinement status for confinement.
2. Regional Programs.
  - a. Officers may utilize any available social diversion program sponsored and approved by the Los Angeles County Jail system.
  - b. If utilized, such action shall be part of the department's official records, via an ARMS entry or report, as approved by the watch commander.
  - c. Subsequent to a case being reviewed by the Prosecutor's Office, a decision may be made to utilize a diversion program. This action is the responsibility of the Prosecutor's Office and not the University Police.
3. Campus Programs.
  - a. The following campus programs and services are available to officers:
    - 1) Student Affairs disciplinary review;
    - 2) Housing residential authority;
    - 3) Student Health Center (counseling for drugs, alcohol, and inappropriate actions); and
    - 4) Human Resources (Office of Equity and Diversity & employee disciplinary actions).
  - b. The watch commander must review and approve any diversion to a campus program and the action shall be documented in written form to the Chief of Police.

H. Civil Writs requiring the seizure of real or personal property.

1. Any civil writs issued requiring the seizure of real or personal property shall be served by sworn a University Police Officer.
2. The Department of Public Safety views asset forfeiture as a legal method to disrupt and dismantle illegal organizations, not as means of generating revenue.

3. Occasionally, the Department of Public may enter into agreements with other agencies regarding the processing and handling of asset forfeiture. When such an agreement is in force, its contents shall be considered to override or supplement the contents of this order, where applicable, for the duration of the agreement.
4. Revenue derived from asset forfeitures may not be included in budget allocations, nor shall budgeting decisions be based on anticipated forfeiture revenues.
5. All property acquired through the civil process function shall be accounted for in the department's property and evidence system and disposed of pursuant to legal authority.
  - a. Property forms will be completed on all items.
  - b. A record of the property will be established and maintained in ARMS.
  - c. A copy of the civil process will be filed with the originating case in the department's Records Unit.
6. Forfeiture Goals.
  - a. To use asset forfeiture laws in the manner in which they were intended, i.e., to deter criminals or deprive them of property gained through illegal activity.
  - b. To use asset forfeiture laws to supplement traditional law enforcement techniques.
  - c. As a by-product of the above, to produce revenue that supplements but does not replace funding used to combat illegal narcotics and organized crime activity at CSULA.
7. General Forfeiture Guidelines.
  - a. Criminal prosecution is the ultimate goal in every investigation; civil forfeiture is a secondary goal.
  - b. Criminal prosecution shall not be jeopardized or minimized in lieu of civil forfeiture.
  - c. Criminal prosecution and civil forfeiture shall proceed independently. The threat of criminal prosecution shall not be used as a lever to achieve financial gain or settle forfeiture.
  - d. Asset forfeiture proceedings shall be directed against those people directly involved with criminal activity. It is not in the interest of the community or Department of Public Safety to cause undue hardships to innocent third parties or to cause personal hardship to people with a familial relationship to the suspect.
  - e. Asset forfeitures should be proportionate to the criminal activity that can be established using the preponderance of evidence test.
8. Authority and Responsibility over Asset Forfeitures.

- a. The Chief of Police has the ultimate authority for all decisions regarding asset forfeiture.
- b. Operational management over individual forfeitures shall be the responsibility of the Investigations Unit supervisor so actions can be handled efficiently and effectively.

V. APPENDICES: None.