

Private Persons Arrests

331.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidance for the handling of private person's arrests made pursuant to Penal Code § 837.

331.2 ADVISING PRIVATE PERSONS OF THE ARREST PROCESS

Penal Code § 836(b) expressly mandates that all officers shall advise victims of domestic violence of the right to make a private person's arrest, including advice on how to safely execute such an arrest. In all other situations, officers should use sound discretion in determining whether or not to advise an individual of the arrest process.

- (a) When advising any individual regarding the right to make a private person's arrest, officers should refrain from encouraging or dissuading any individual from making such an arrest and should instead limit advice to the legal requirements for such an arrest as listed below.
- (b) Private individuals should be discouraged from using force to effect a private person's arrest, and absent immediate threat to their own safety or the safety of others, private individuals should be encouraged to refer matters to law enforcement officials for further investigation or arrest.

331.3 ARRESTS BY PRIVATE PERSONS

Penal Code § 837 provides that a private person may arrest another:

- (a) For a public offense committed or attempted in his or her presence;
- (b) When the person arrested has committed a felony, although not in his or her presence;
- (c) When a felony has been in fact committed, and he or she has reasonable cause for believing the person arrested has committed it.

331.4 ARRESTS BY PRIVATE SECURITY PERSONNEL FOR SHOPLIFTING

When an officer is dispatched to a business with a shoplifter in their custody:

- (a) The investigating officer may process a juvenile by counseling or citing and releasing to a parent or guardian, or booking at Juvenile Hall.
- (b) In the event of a misdemeanor arrest of an adult, the officer shall determine whether the defendant can be released pursuant to Section 853.6(i) PC. If the defendant meets the criteria they shall be released by issuance of a citation. If they do not meet the criteria, they may be booked at the Shasta County Jail.

Officers responding to shoplifting arrests at businesses with loss prevention personnel shall confirm the offender's identification and check for warrants, probation/parole status, and prior convictions. Loss Prevention personnel may complete the face page of the arrest report and attach to their written statement.

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It is the officer's responsibility to ensure the arrest report is complete and forward it to the District Attorney's Office.

The officer shall release the offender on a signed notice to appear and attach it to the completed report with the "booking required" box checked.

Stolen property held by a business pursuant to a shoplifting report should remain in the custody of the business. The officer shall describe the property in detail in the arrest report.

331.4.1 PROSECUTION BY COMPLAINT PROGRAM (SHOPLIFTING)

This program is designed to allow trained loss prevention personnel to submit cases to the Shasta County District Attorney for prosecution via the Redding Police Department.

Officers assigned to the Prosecution by Complaint Program will provide training to selected loss prevention personnel. The training will include report preparation as well as which incidents qualify for the program. A list of trained loss prevention personnel shall be maintained in the Resource File.

The following cases may qualify for the Prosecution by Complaint Program:

- (a) The suspect has a valid government-issued photo identification, or their identification can be verified by a patrol officer.
- (b) The suspect is cooperative.
- (c) The suspect is not on probation or parole.
- (d) For juvenile suspects, a parent or guardian must be available to take custody of the juvenile.
- (e) The suspect has no outstanding warrants.

Trained loss prevention personnel shall adhere to the following protocol for prosecution:

- (a) When the suspect has been detained, loss prevention personnel shall contact SHASCOM and provide the full name and date of birth of the suspect, as indicated on the government issued identification.
- (b) SHASCOM personnel will determine if the suspect qualifies for the program, The loss prevention caller will be provided with a case number for their report. If the suspect does not have identification, but otherwise meets the criteria for the program, a patrol officer will be dispatched to the scene. If the patrol officer is able to verify the suspect's identity, they may provide the loss prevention personnel with a log report number and log out the call using the call type 488LP. The patrol officer will have SHASCOM note in the comments of the log report the manner in which the suspect was identified (i.e. — via Cal-Photo, tattoos, and prior contacts, etc.).
- (c) The loss prevention agent will complete their report and mail or deliver the report to the Redding Police Department with 48 hours of the incident.

Police Records Technicians will run and attach RAP sheets and the report will be placed in the report review tray in the Sergeants Office.

Report Review:

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- (a) The shift supervisor shall review reports submitted by loss prevention agents. The shift supervisor shall confirm the information in the RAP sheets matches the information on the report. When the reports are approved, they will be routed to the Shasta County District Attorney for a complaint.
- (b) If there are errors, omissions or other circumstances which require further follow-up, the case will be assigned to a beat officer.

331.5 OFFICER RESPONSIBILITIES

Any officer presented with a private person wishing to make an arrest must determine whether or not there is reasonable cause to believe that such an arrest would be lawful (Penal Code § 847).

- (a) Should any officer determine that there is no reasonable cause to believe that a private person's arrest is lawful, the officer should take no action to further detain or restrain the individual beyond that which reasonably appears necessary to investigate the matter, determine the lawfulness of the arrest and protect the public safety.
 - 1. Any officer who determines that a private person's arrest appears to be unlawful should promptly release the arrested individual pursuant to Penal Code § 849(b) (1). The officer must include the basis of such a determination in a related report.
 - 2. Absent reasonable cause to support a private person's arrest or other lawful grounds to support an independent arrest by the officer, the officer should advise the parties that no arrest will be made and that the circumstances will be documented in a related report.
- (b) Whenever an officer determines that there is reasonable cause to believe that a private person's arrest is lawful, the officer may exercise any of the following options:
 - 1. Take the individual into physical custody for booking
 - 2. Release the individual pursuant to a Notice to Appear
 - 3. Release the individual pursuant to Penal Code § 849

331.6 REPORTING REQUIREMENTS

In all circumstances in which a private person is claiming to have made an arrest, the individual must complete and sign a Department Private Person's Arrest form under penalty of perjury.

In addition to the Private Person's Arrest Form (and any other related documents such as citations, booking forms, etc.), officers shall complete a narrative report regarding the circumstances and disposition of the incident.