02-006 Private Person Arrest Procedures

Los Angeles County Sheriff's Department

FIELD OPERATIONS DIRECTIVE

Field Operations Support Services

PRIVATE PERSON ARREST PROCEDURES

PURPOSE

The purpose of this Field Operations Directive is to establish procedures relating to private person arrests and to ensure that such procedures comply with federal court decisions and changes in California law.

BACKGROUND

Prior to 2003, Penal Code Section 142 made it a felony offense for a peace officer to refuse to accept a private person's arrest. During this time, several Federal Ninth Circuit court rulings held that it is a violation of an individual's Fourth Amendment right against unreasonable seizure when a peace officer takes custody of an individual, pursuant to a private person's arrest, when no probable cause exists.

Based on the Federal court rulings, the State Legislature amended 142 P.C., effective January 1, 2003, so that it does not apply to private person arrests.

POLICY AND PROCEDURES

Because 142 P.C. no longer applies to private person arrests, peace officers are not compelled to accept them. Therefore, in order to determine whether a particular private person's arrest should be accepted, deputies now must determine if probable cause exists before accepting that arrest. Deputies shall conduct a thorough investigation to determine if probable cause exists for the arrest before accepting custody of an individual in a private person arrest situation.

DEPUTY'S RESPONSIBILITIES

When an individual requests to make a private person's arrest, and the handling deputy determines there **is** probable cause for the arrest, the deputy shall:

- Have the person making the arrest inform the arrestee of their intention to arrest them, the cause of the arrest, and the authority to make (in accordance with California Penal Code Section 841).
- *Have the private person making the arrest sign a "Private Person's Arrest" form (SH-CR-202 - Rev.10/09).*
- Have the private person making the arrest sign the "Booking and Property Record" (B&PR) in the space entitled "NAME OF ARRESTING OFFICER."
- Accept custody of the arrestee.

- If the arrestee is not released in the field or from the station on a citation, the deputy shall complete and sign the Probable Cause Declaration (PCD).

When an individual requests to make a private person's arrest and the handling deputy determines there is inadequate probable cause for the arrest, the deputy shall:

- **Do not** accept custody of the alleged suspect.
- Confidentially advise the individual desiring the private person arrest that such an arrest would be unlawful and that we will not take custody of the alleged suspect. Complete a detailed log entry regarding the incident.
- **Do not** obtain a booking number or complete a "Booking and Property Record" (B&PR).

Private Person Arrest of Juvenile

All of the steps listed above for the arrest of an adult by a private person apply to a juvenile arrest by a private person. In addition, the deputy shall advise the juvenile of his/her constitutional rights at the time the deputy accepts the juvenile into custody.

AFFECTED DIRECTIVES/PUBLICATIONS

MPP §4-04/080.00 Arrests - Provides supplemental guidance

REFERENCES

Fuller v. M.G. Jewelry (*950 F.2d 1437, 1444) (9th Cir. 1991*) Penal Code §142

MPP §5-03/005.50 Probable Cause Declaration