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6-04/200.60 Warrant, Who May Issue

6-04/200.70 PC 807. Magistrate defined

6-04/200.80 PC 808 Persons designated as magistrates

References

BPC – Business and Professions Code	INS – Insurance Code
CC – Civil Code	LAB – Labor Code
CCP – Code of Civil Procedure	PC – Penal Code
CRC – California Rules of Court	PROB – Probate Code
ELEC – Elections Code	RTC – Revenue and Taxation Code
FAM – Family Code	UIC - Unemployment Insurance Code
GC – Government Code	VEH – Vehicle Code
HNC – Harbors and Navigation Code	WIC – Welfare and Institutions Code

Updated October 22, 2020

Edited November 17, 2020

• 6-04/000.00 Arrests and Warrants

This Chapter covers the service of bench warrants in general and civil bench warrants in particular. The Legal Sourcebook published by the Attorney General addresses the service of criminal bench warrants in greater detail.

AB 1150 (2005) addressed outdated protocols governing the issuance and execution of civil bench warrants that have hampered the sheriff for many years. The following changes became effective on January 1, 2006.

a. The provision for civil forfeiture for failing to appear pursuant to a subpoena was expanded to include failure to appear as directed by a court order.

b. As an alternative to issuing a contempt warrant that is criminal in nature, the court may issue a civil bench warrant with civil sanctions rather than criminal penalties.

c. If the court specifies in the civil bench warrant that the sheriff may release the arrested person on a promise to appear, the arrestee is subject to civil, rather than criminal, sanctions for failing to appear as promised.

d. Sheriff fees increased and are applicable to warrants issued in all civil actions, not just judgment debtor examinations.

e. The sheriff is required to bring the arrested person before the court no later than twelve hours after arrest, but the sheriff may also take the person to nearest magistrate, not just the issuing court.

f. The contents of a civil bench warrant are codified to protect the arresting officer by safeguarding the arrestee’s due process rights to be informed on the specific reason for arrest. Similarly, an adequate description of the person to be arrested must be stated in the warrant.

• 6-04/010.00 Criminal Bench Warrant

For the purposes of this Chapter, a criminal bench warrant includes any warrant issued for the arrest of a person who is charged with a crime as defined in Section 15 of the Penal Code. Contempt is a crime punishable by imprisonment and/or fine.

15 PC A crime or public offense is an act committed or omitted in violation of a law forbidding or

commanding it, and to which is annexed, upon conviction, either of the following punishments:

1. Death;
2. Imprisonment;
3. Fine;
4. Removal from office; or,
5. Disqualification to hold and enjoy any office of honor, trust, or profit in this State.

• • 6-04/010.10 Contempt of Court

The two most commonly used statutes for contempt of court are PC 166 and CCP 1209. A warrant charging contempt of court pursuant to 1209 CCP or 166 PC shall be sent by the court clerk to the County Warrant System for entry into CWS. The Civil Management Bureau (CMB) has no involvement in the processing of these types of warrants. Refer to Court Services Division Manual beginning with 3-15/000.00.

CCP 1209 - Summary Contempt

CCP 1209 through 1222 govern the power of the court to summarily treat a person for contempt. The contemnor (person charged with contempt) has no jury trial right, may be punished by five days in jail and/or a $1,000 fine and cannot appeal. CCP 1209 warrants may be entered in a local wants and warrants database and enforced by any peace officer.

• • 6-04/010.20 Criminal Contempt

PC 166 is a misdemeanor punishable by six months in the county jail and/or a $1,000 fine. The procedures for the arrest and prosecution of a defendant are the same as other misdemeanor crimes, including the right to a jury trial and release on a promise to appear (PC 853.6) PC 166 warrants may be entered in a local wants and warrants database and enforced by any peace officer.

• • 6-04/010.30 Contempt - Other

There are numerous additional contempt statutes, most of which are prosecuted following the court's summary contempt proceedings delineated in CCP 1209 through 1222 (See 6-04/030.70 ADDITIONAL CONTEMPT STATUTES)

• 6-04/020.00 Civil Bench Warrant

A person may not be arrested and imprisoned for a civil debt or tort. However, a person is subject to arrest for disobeying a court order or subpoena.

CCP 501 A person may not be imprisoned in a civil action for debt or tort, whether before or after judgment. Nothing in this section affects any power a court may have to imprison a person who violates a court order.

CAL CONSTITUTION, ARTICLE 1 Sec. 10 Witnesses may not be unreasonably detained. A person may not be imprisoned in a civil action for debt or tort, or in peacetime for a militia fine.

• • 6-04/020.10 Issuance

A chief characteristic of a warrant issued pursuant to CCP 1993 is a determination by the court of the immediacy to produce the arrestee in court to testify or comply with a court order. The court will not even order the issuance of the warrant for a witness without leave to release the person on a promise to appear unless it determines that the person's immediate presence is required. CCP 1993 (2)

1993 CCP (cited in part)

(a) (1) As an alternative to issuing a warrant for contempt pursuant to paragraph (5) or (9) of subdivision (a) of Section 1209, the court may issue a warrant for the arrest of a witness who failed to appear pursuant to a subpoena or a person who failed to appear pursuant to a court order. . .

(2) Before issuing a warrant for a failure to appear pursuant to a subpoena pursuant to this section, the court shall issue a "failure to appear" notice informing the person subject to the subpoena that a failure to appear in response to the notice may result in the issuance of a warrant. This notice requirement may be omitted only upon a showing that the appearance of the person subject to the subpoena is material to the case and that urgency dictates the person's immediate appearance.

• • 6-04/020.20 Warrant Contents

The warrant must directed to the sheriff rather than any peace officer, and include the:

1. Title and case number,
2. Name and description of the person be arrested
3. Last known address
4. Date and county of issuance
5. Signature, title and name of court of the issuing magistrate
6. Date of service of the subpoena or order that was disobeyed
7. Command to bring the person before the court or nearest magistrate
8. A statement indicating the expiration date of the warrant as determined by the court.
9. Bail amount
10. Nighttime service endorsement, if approved by the court

11. Authorization to release on promise to appear, if approved by the court, and
12. Appearance date, time and place if the court authorizes release on promise to appear
13. CCP 1993

• • 6-04/020.30 Arrest

The sheriff should not arrest the person, assuming that release on a promise to appear is not authorized, unless the arrestee can be brought before the issuing court or nearest magistrate within twelve hours of the arrest. If not timely produced in court, the person must be released from custody. 1993 (b) (7) CCP

1993 CCP (cited in part)

(b) The warrant shall contain . . .:

(7) A command to bring the person to be arrested before the issuing court, or the nearest court if in session, for the setting of bail in the amount of the warrant or to release on the person's own recognizance. Any person so arrested shall be released from custody if he or she cannot be brought before the court within 12 hours of arrest, and the person shall not be arrested if the court will not be in session during the 12-hour period following the arrest.

• • 6-04/020.40 Promise to Appear

The court may specify in the warrant that the person to be arrested can be released on a promise to appear. The procedures for release on a promise to appear are unlike those used for a misdemeanor under PC 853.6: (1) there are fewer reasons for non-release, and (2) the contents, filing protocols and form of the promise to appear are different from the form used for a PC 853.6 release. CCP 1993(b) (11); CCP 1993.1

CCP 1993 (cited in part) (b) The warrant shall contain

1. A statement indicating whether the person may be released upon a promise to appear as provided by Section 1993.1. The court shall permit release upon a promise to appear, unless it makes a written finding that the urgency and materiality of the person's appearance in court precludes use of the promise to appear process.
2. The date and time to appear in court if arrested and released pursuant to paragraph (11).
CCP 1993.1

a. If authorized by the court as provided by paragraph (11) of subdivision (b) of Section 1993, the sheriff may release the person arrested upon his or her promise to appear as provided in this section.
b. The sheriff shall prepare in duplicate a written notice to appear in court, containing the title of the case, case number, name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court. In addition, the notice shall advise the person arrested of the provisions of Section 1992.

c. The date and time specified in the notice to appear in court shall be that determined by the issuing court pursuant to paragraph (12) of subdivision (b) of Section 1993.
d. The sheriff shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, shall give his or her written promise to appear in court as specified in the notice by signing the duplicate notice, which shall be retained by the sheriff, and the sheriff may require the arrested person, if he or she has no satisfactory identification, to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the notice to appear. Except for law enforcement purposes relating to the identity of the arrestee, no person or entity may sell, give away, allow the distribution of, include in a database, or create a database with, this print. Upon the signing of the duplicate notice, the arresting officer shall immediately release the person arrested from custody.
e. The sheriff shall, as soon as practicable, file the original notice with the issuing court. The notice may be electronically transmitted to the court.
f. The person arrested shall be released unless one of the following is a reason for non-release, in which case the arresting officer either may release the person or shall indicate, on a form to be established by his or her employing law enforcement agency, which of the following was a reason for the non-release:
    1. The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.
    2. The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.
    3. There were one or more additional outstanding arrest warrants for the person.
    4. The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

• • 6-04/020.50 Failure to Appear as Promised

The failure of a person to appear as promised does not constitute a violation of PC 853.7. Instead, the court may issue another warrant and/or assess a civil assessment of not more than $1,000.

(CCP 1993.2)

• 6-04/030.00 Intake of Civil Warrant

The Civil Management Bureau only handles bench warrants issued under CCP 1993, 708.170 and 491.160. All other warrants are handled by the Bailiff or the court clerk. Please refer to Court Services Division Manual 3-15/000.00 – 3-15/000.15.

• • 6-04/030.10 Court Clerk

A warrant must be received directly from the issuing court or another sheriff's office, not from a

litigant or attorney. The litigant or attorney must provide written and signed instructions AND the statutory fees to the Sheriff prior to a civil bench warrant being issued. Upon acceptance of the instructions and fees, Sheriff's Department personnel shall contact the court clerk of the issuing court and inform them the Sheriff's Department has received fees and request the warrant be issued and forwarded to the Sheriff's Department.

• • 6-04/030.20 CCP 1993 Warrants

Bench Warrants issued under CCP 1993 shall be accepted and processed. Warrants shall be given priority over all process except protective orders, evictions, Writs of Attachment, Writs of Possession (Claim and Delivery), and short-dated process. Deputies shall attempt service in accordance with the established Levy Procedures. All Department Policies and Procedures dealing with arrests remain in place. A courtesy letter shall be mailed to the arrestee allowing seven days for him/her to appear before the warrant is placed in the field for service.

• • 6-04/030.30 CCP 708.170 and 491.160 Warrants

If the warrant was **not** previously issued under CCP 1993, deposit the fees as usual and create a Warrant Folder. Mail a courtesy letter to the arrestee allowing seven days for him/her to appear. If the arrestee fails to appear, send the original warrant to the County Warrant System (CWS) for entry into the system. 12440 E. Imperial Hwy, 400 W, Norwalk CA 90650 Attention: Sergeant Laura Barron.

a. Enter an "I" (investigation) in our Legacy System and Service Ticket indicating the date the warrant is sent to CWS.

b. CALENDAR the warrant in our Legacy System for the warrant expiration date.

c. Notify CWS by telephone and fax to return the warrant to the originating CMB office when the warrant has expired, recalled or cancelled. Telephone No.(562) 345-4457 Fax No.(562) 651-2577

d. Document the notification to return the expired warrant to the originating CMB office.

e. Once a warrant is retrieved from CWS, return the warrant to court with the appropriate No Service, Not Found, or "Served" letter and close out the Warrant Folder.

If the warrant was **previously issued** under CCP 1993, process the warrant and immediately place in the field for service. DO NOT create or mail a courtesy letter to the arrestee.

• • 6-04/030.40 Instructions

Signed written instructions are required and should include information regarding officer hazards, telephone numbers, vehicles driven, and anything else that may be of assistance in locating the person to be arrested. In an effort to enhance the accuracy of civil beach warrants personnel shall request that the plaintiff's instructions contain a description of the defendant whose arrest is to be ordered. If the plaintiff is unable to provide a description, the office shall accept the civil bench warrant and attempt service (CCP 262.1). If the warrant is issued under CCP 708.170 or CCP 491.160, a description of the defendant may not appear. CCP 1993 requires the detailed description of the defendant appear on the warrant, thus the instructions must match the warrant.

The field deputy shall enforce the warrant only where there is a reasonable belief that the person contacted and the one referred to on the warrant are one in the same.

• • 6-04/030.45 Warrant Directed to Another County

In the case of a warrant to be served in another county, the original warrant, fee deposit check and Sheriff's instructions should be directed to the Sheriff's Department where the warrant has been issued. Counter personnel shall mail the process to the responsible Sheriff's Department in that county. A comment shall be entered in MAPAS indicating when and to where the warrant packet was mailed.

• • 6-04/030.50 Cancellation

The court may recall a civil warrant. In addition, the party who requested service of the warrant may also cancel the request by submitting signed written instructions to do so. However, a criminal warrant charging a violation of CCP 1209 and/or PC 166 must be recalled by the court in the same manner as any other criminal warrant.

• • 6-04/030.60 Not Found

The diligence and fee for Not Founding a warrant are not the same as for other civil process. Greater diligence is required because a civil warrant can only be directed to the sheriff. A civil bench warrant cannot be executed by a registered process server, private person or police officer.

• • 6-04/030.70 Effect of Bankruptcy on Civil Bench Warrant

When a debtor fails to appear for a judgment debtor examination, the court issues a bench warrant. The Sheriff is subsequently tasked with arresting the debtor and bringing him/her to court, so the debtor can show cause why he/she should not be held in contempt. In the vast majority of cases, the court releases the debtor without posting bail, resets the debtor

examination and does not conduct a contempt hearing. If the debtor files a petition in bankruptcy, an automatic stay is created pursuant to 11 USC 362(a) (1) which prevents creditors and levying officers from commencing or continuing a judicial action or proceeding (including a debtor examination) against the debtor. However, 11 USC 362(b) delineates exceptions to the automatic stay. Specifically, 11 USC 362(b) (4) excludes from the automatic stay "the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory powers." Case law generally recognizes the court's contempt power to uphold the dignity of the court as an exception to the automatic stay. Consequently, the debtor may be arrested for contempt but not subjected to a debtor examination.

• • • 6-04/030.75 No Service

Upon receipt of notice of bankruptcy, the debtor shall not be arrested and the bench warrant shall be "No Serviced" without charging a fee. The No Service return shall indicate the bankruptcy Chapter, case number, date of filing and a statement that the warrant is returned to court without service pursuant to the automatic bankruptcy stay (11 USC 362). If the court reissues the warrant in spite of the bankruptcy, the warrant shall be executed so long as it charges contempt on its face.

• • 6-04/030.80 Fees

The fees for a warrant issued pursuant to CCP 708.170 or CCP 491.160 are $50: no fee for processing; $40 for cancellation; $35 for a not found; and, $50 to arrest and/or transport to court. A Promise to Appear citation shall not be given. (GC 26744, 26736, 26738)

The fees for a warrant issued pursuant to CCP 1993 are: $40 for processing; $40 for cancellation; $85 for a not found; and, $100 to arrest or arrest and cite. (GOV 26744.5)

• • 6-04/030.90 Additional Contempt Statutes

BP 6050 - Disobedience to State Bar proceedings subpoena

BP 6127 - Impersonating an attorney

BP 18845 - Disobedience to Boxing Commission subpoena

BP 22351 - Failure to surrender registered process server identification card

CC 3507.3 - Cruelty to animal in motion picture industry

CCP 116.830 - Contempt for failure to complete declaration of assets in small claims case

CCP 209 - Disobedience to jury summons

CCP 234 - Alternate juror misconduct

CCP 391.7 - Filing by vexatious litigant

CCP 482.080 - Failure to turn over property to levying officer in writ of attachment case

CCP 491.160 - Failure of third party to appear for examination in writ of attachment case

CCP 512.070 - Failure to transfer property pursuant to a writ of possession (claim and delivery)

CCP 667.7 - Failure of health care provider judgment debtor to pay judgment

CCP 706.075 - Failure of employer to deliver earnings withholding order for taxes to employee

CCP 708.120 - Failure to appear for debtor judgment debtor examination

CCP 708.170 - Failure to appear for judgment debtor examination

CCP 714.030 - Failure of judgment debtor to turn over property to levying office in writ of execution case

CCP 717.010 - Failure to comply with order not enforceable under Enforcement of Judgment Law

CCP 1008 - Failure to advise court of previously denied application for an order

CCP 1209 - Acts or omissions constituting direct and indirect contempts of court

CCP 1210 - Re-entry after eviction

CCP 1219.5 - Refusal of minor to testify

CCP 1985.1 - Failure of witness to comply with on call agreement

CCP 1991 - Disobedience to subpoena

CCP 1991.1 - Disobedience to deposition subpoena

CCP 2020.240 - Disobedience to deposition subpoena

CCP 2023.030 - Abusing discovery process

CCP 2025.480 - Refusal to answer at a deposition Court Rule 955 Disbarred attorney practicing law.

Court Rule 1.150 - Photographing, recording, and broadcasting in court

CORP 1603 - Failure to disclose corporation accounting records

CORP 8336 - Failure to disclose non-profit corporation accounting records

CORP 12606 - Failure to disclosed consumer cooperation corporation records

CORP 25531 - Failure to obey subpoena issued by Commissioner of Corporations

FAM 290 - Enforcement of Family Code orders

FAM 5241 - Failure of employer to comply with support order

FAM 5252 - False filing of request for support order

FAM 7883 - Failure to comply with citation to appear at a custody hearing

Food and AGR Code 5605 - Failure to comply with Agricultural Commissioner order

GC 6259 - Failure to disclose public records

GC 9405 - Failure to comply with subpoena issued by legislature

GC 18672 - Disobedience to State Civil Service Commission subpoena

GC 25173 - Disobedience to Board of Supervisors subpoena

GC 27498 - Disobedience to Coroner subpoena

GC 68752 - Disobedience to COMMISSION ON JUDICIAL PERFORMANCE subpoena

HS 11580 - Violation of injunction or abatement order

HS 40842 - Disobedience to Air Pollution Control District subpoena

LAB 132 - Disobedience to Department of Industrial Relations 12924 INS Disobedience to Insurance Commissioner subpoena

Military and Veterans Code 460 - Disobedience to military court subpoena

PC 136.2 - Witness intimidation

PC 278.5 - Deprivation of child custody rights

PC 1328 - Disobedience to criminal subpoena

PC 1328d - Disobedience to criminal subpoena served by mail

PC 1331 - Disobedience to criminal subpoena

PC 1331.5 - Disobedience to criminal subpoena on-call agreement

PC 11229 - Violation of Red Light Abatement order

PROB 2616 - Violation citation issued in conservatorship proceeding

Public Utilities Code 312 - Disobedience to Public Utilities Commission subpoena

VEH 40508 - Driving with an impounded driver's license

VEH 42003 - Failure to pay fine

WIC 213 - Disobedience to juvenile court order

WIC 340.5 - Threatening a social worker

WIC 664 - Disobedience to juvenile court subpoena

• 6-04/040.00 Asset Examination, Failure to Appear for; willfully making improper service

CCP 491.160 (a) If an order requiring a person to appear for an examination was served by a sheriff, marshal, a person specially appointed by the court in the order, or a registered process server, and the person fails to appear:

(1) The court may do either of the following:

(A) Pursuant to a warrant, have the person brought before the court to answer for the failure to appear and may punish the person for contempt.

(B) Issue a warrant for the arrest of the person who failed to appear as required by the court order, pursuant to Section 1993.

(2) If the person's failure to appear is without good cause, the plaintiff shall be awarded reasonable attorney's fees incurred in the examination proceeding.
(b) A person who willfully makes an improper service of an order for an examination which subsequently results in the arrest pursuant to subdivision (a) of the person who fails to appear is guilty of a misdemeanor.

CCP 708.170 (a) If an order requiring a person to appear for an examination was served by a sheriff, marshal, a person specially appointed by the court in the order, or a registered process server, and the person fails to appear:

(1) The court may do either of the following:

(A) Pursuant to a warrant, have the person brought before the court to answer for the failure to appear and may punish the person for contempt.

(B) Issue a warrant for the arrest of the person who failed to appear as required by the court order, pursuant to Section 1993.

(1) If the person's failure to appear is without good cause, the judgment creditor shall be awarded reasonable attorney's fees incurred in the examination proceeding. Attorney's fees awarded against the judgment debtor shall be added to and become part of the principal amount of the judgment.
(b) A person who willfully makes an improper service of an order for an examination which subsequently results in the arrest pursuant to subdivision (a) of the person who fails to appear is guilty of a misdemeanor.

• 6-04/050.00 Disobeying a Subpoena or Court Order

In addition to criminal penalties (imprisonment and/or fine) for contempt of court, a person who fails to appear pursuant to a subpoena or court order also forfeits $500 and damages that may be recovered in a separate civil law suit. (CCP 1992)

• 6-04/060.00 Entry into Dwelling of Third Party

The U.S. Supreme Court has ruled that, absent consent or exigent circumstances, an arrest warrant does not authorize a search of the home of persons not named in the warrant. The court said that the house to be entered and searched must be the home of the person named in the arrest warrant. Otherwise, a search warrant must be obtained, absent consent or exigent circumstances, in order for the entry and search to be deemed reasonable and protect Fourth Amendment interests of persons not named in the warrant. In making an arrest pursuant to a warrant of arrest, forcible entry into a dwelling shall be made only if there is reasonable cause to believe (1) that the subject of the warrant is within the dwelling, and (2) the dwelling is the home of the person to be arrested. Otherwise, absent consent or exigent circumstances, a search warrant shall be obtained prior to making forcible entry.

Exigent circumstances means an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property or to forestall the imminent escape of a suspect or destruction of evidence. (People v. Ramey, 16 CA 3rd 263)

• 6-04/070.00 False Arrest, Peace Officer not Liable for

• • 6-04/070.10 Arrest under warrant regular on face not actionable

There shall be no liability on the part of, and no cause of action shall arise against, any peace

officer who makes an arrest pursuant to a warrant of arrest regular upon its face if the peace officer in making the arrest acts without malice and in the reasonable belief that the person arrested is the one referred to in the warrant. (CC 43.55)

• • 6-04/070.20 Arrest by private person; duty to take prisoner before magistrate or deliver him to peace officer; liability for false arrest

PC 847 (a) 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.

(b)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 under any of the following circumstances:

(1) The arrest was lawful, or the peace officer, at the time of the arrest, had reasonable cause to believe the arrest was lawful.

(2) The arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested.

(3) The arrest was made pursuant to the requirements of Section 142, 837, 838, or 839.

• 6-04/080.00 False representation of identity to peace officer; misdemeanor

Any person who falsely represents or identifies himself or herself as another person or as a fictitious person to any peace officer upon a lawful detention or arrest, either to evade the process of the court, or to evade the proper identification of the person by the investigating officer while the peace officer is engaged in the performance of his or her duties as a peace officer and the person providing the false information knows or should have known that the person receiving the information is a peace officer is guilty of a misdemeanor. (PC 148.9)

• 6-04/090.00 Escapee, Arrest of

A peace officer may make an arrest in obedience to a warrant delivered to him, or may, without a warrant, arrest a person who, while charged with or convicted of a misdemeanor, has escaped from any county or city jail, prison, industrial farm or industrial road camp or from the custody of the officer or person in charge of him while engaged on any county road or other county work or going to or returning from such county road or other county work or from the custody of any officer

or person in whose lawful custody he is when such escape is not by force or violence. (PC 836.3)

• 6-04/100.00 Force, Permissible

• • 6-04/100.10 Resistance to arrest

If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest. (PC 834a)

• • 6-04/100.20 Method of making arrest; amount of restraint

An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subjected to such restraint as is reasonable for his arrest and detention. (PC 835)

• • 6-04/100.30 Use of force to effect arrest, prevent escape, or overcome resistance

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance. (PC 835a)

• • 6-04/100.40 Arrest under warrant; force permissible

When the arrest is being made by an officer under the authority of a warrant, after information of the intention to make the arrest, if the person to be arrested either flees or forcibly resists, the officer may use all necessary means to effect the arrest. (PC 843)

• 6-04/110.00 Housing Cost for Civil Prisoners

Some outside jurisdictions require a housing fee for civil arrestees based on 4016 PC which was enacted in 1941. (PC 4016)

• 6-04/120.00 Immunity from Arrest as Foreign Witness

If a person comes into this State in obedience to a subpoena directing him to attend and testify in this State, he shall not, while in this State pursuant to the subpoena or order, be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this State under the subpoena. (PC 1334.4)

• 6-04/130.00 Magistrateâ€™s Verbal Order to Arrest

A magistrate may orally order a peace officer or private person to arrest anyone committing or attempting to commit a public offense in the presence of such magistrate. (PC 838)

• 6-04/140.00 Out of County Warrant

A person arrested on an out-of-county misdemeanor warrant must be advised in writing of the right to be brought before the nearest magistrate for bail setting. (PC 822) However, the provisions of a civil warrant issued pursuant to CCP 1993 make PC 822 and PC 823 inapplicable because the arresting officer is required to bring the person before the issuing court or nearest magistrate within 12 hours after arrest.

• • 6-04/140.50 Prisoner Segregation

A person arrested as a witness, held under civil process or imprisoned for contempt should be segregated from other prisoners. (PC 4001)

• 6-04/150.00 Re-entering Property After Eviction

Every person who has been removed from any lands by process of law, or who has removed from any lands pursuant to the lawful adjudication or direction of any Court, tribunal, or officer, and who afterwards unlawfully returns to settle, reside upon, or take possession of such lands, is guilty of a misdemeanor. (PC 419)

• 6-04/160.00 Resisting Arrest

Every person who willfully resists, delays, or obstructs a peace officer in the discharge or attempt to discharge any duty is guilty pf a misdemeanor. (PC 148)

• 6-04/170.00 Retaking Levied Property

Every person who willfully injures or destroys, or takes or attempts to take, or assists any person in taking or attempting to take, from the custody of any officer or person, any personal property which such officer or person has in charge under any process of law, is guilty of a misdemeanor. (PC 102)

• 6-04/180.00 Riots

GC 26602 The sheriff shall prevent and suppress any affrays, breaches of the peace, riots, and insurrections which come to his knowledge, and investigate public offenses which have been committed.

PC 727 If the persons assembled do not immediately disperse, such magistrates and officers must arrest them, and to that end may command the aid of all persons present or within the county.

• 6-04/190.00 Telegraphic Warrant

A telegraphic copy of a warrant or an abstract of a warrant may be sent by telegraph, teletype, or any other electronic devices, to one or more peace officers, and such copy or abstract is as effectual in the hands of any officer, and he shall proceed in the same manner under it, as though he held the original warrant issued by a magistrate or the issuing authority or agency. (PC 850)

• 6-04/200.00 Warrant Contents (Criminal)

• • 6-04/200.10 Warrant; direction; execution

PC 816 A warrant of arrest shall be directed generally to any peace officer, or to any public officer or employee authorized to serve process where the warrant is for a violation of a statute or ordinance which such person has the duty to enforce, in the state, and may be executed by any of those officers to whom it may be delivered.

When a warrant of arrest has been delivered to a peace officer and the person named in the warrant is otherwise lawfully in the custody of the peace officer, the warrant may be executed by the peace officer or by any clerk of a city or county jail authorized to act and acting under the peace officer’s direction.

• • 6-04/200.20 Warrant; contents

PC 815 A warrant of arrest shall specify the name of the defendant or, if it is unknown to the magistrate, judge, justice, or other issuing authority, the defendant may be designated therein by any name. It shall also state the time of issuing it, and the city or county where it is issued, and shall be signed by the magistrate, judge, justice, or other issuing authority issuing it with the title of his office and the name of the court or other issuing agency.

• • 6-04/200.30 Arrest by officer; compliance with warrant

PC 848 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.

• • 6-04/200.40 Warrant, Exhibition of

PC 842 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 so requests it, the warrant shall be shown to him as soon as practicable.

• • 6-04/200.50 Warrant for Witness

The court may issue a contempt warrant pursuant to CCP 1209 for the arrest of a disobedient witness. Or, the court may issue a civil bench warrant pursuant to CCP 1993.

• • 6-04/200.60 Warrant, Who May Issue

GC 72190.1 A commissioner may conduct arraignment proceedings on a complaint if directed to perform those duties by the presiding judge of the court, including the issuance and signing of bench warrants.

• • 6-04/200.70 Magistrate defined

PC 807 A magistrate is an officer having power to issue a warrant for the arrest of a person charged with a public offense.

• • 6-04/200.80 Persons designated as magistrates

PC 808 The following persons are magistrates:

(a) The judges of the Supreme Court.

(b) The judges of the courts of appeal.

(c) The judges of the superior courts.

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