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## CSU FULLERTON POLICE DEPARTMENT GENERAL ORDER NUMBER 3-4

### ARREST PROCEDURES

**SUBJECT:** Procedures for arrest with and without a warrant, service of legal process and alternatives to arrest.

**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.

**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.

#### **PROCEDURE:**

I. Applicable State Codes [CALEA 1.2.5]

A. 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.
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.

## II. Arrest with and without a warrant [CALEA 1.2.5]

- A. 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:
  1. Determine that the person described in the warrant and the subject in custody is one and the same.
  2. Determine if the warrant is available for service. Out of county 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.
  3. Upon receipt of the warrant abstract, the person should be taken into

- custody and taken before the nearest or most accessible magistrate.
- a. 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.
  - b. Before going to the jail, check to determine what the present policy is. (It is dependent upon the number of prisoners in the facility on any given day.)
- B. 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.
1. If the jail will not accept a warrant arrestee who cannot post bail, they must be released in the field or taken to Orange County Jail for turnaround booking, cited and released.
  2. Given the time and expense involved, except in unusual circumstances, it is preferable that officers release individuals in the field who are unable to post bail.
- C. All arrests whether with or without a warrant require the assignment of a case number and completion of an arrest report. [CALEA 1.2.5a,b,c]
1. Field arrests and Custodial arrests require the following:
    - a. Written promise to appear or summons (whichever is applicable);
    - b. Criminal Information Sheet and Officer's Report; and
    - c. Department Property/Evidence Forms (if applicable).
  2. All Felony arrests, domestic violence cases, sex offenses and other serious misdemeanor arrests, if the suspect is booked into Orange County Jail, require the following in addition to the above list:
    - a. Fingerprints and Photographs; preferably completed at the Department but will always be done at OCJ.
    - b. Booking Forms and any additional documents as dictated by a Watch Commander.
  3. For arrests with a warrant the suspect is booked into Orange County Jail and requires a copy of the warrant in addition to the above documentation and processing.
- III. Legal Process
- A. Orange County Automated Warrant Service System (AWSS)
1. This system was developed to fulfill the need of Orange County law enforcement agencies to have access to criminal warrants 24 hours a day. [CALEA 74.1.3f]
  2. Criminal warrants, traffic warrants, bench warrants and civil warrants are all entered into AWSS by the Central Warrant Repository (CWR) at the Orange County Sheriff's Department.

3. When a warrant is sought by a member of this Department, the warrant request is presented to a judge at the Orange County Superior Court. If the warrant is approved, all information regarding the warrant is entered into the system by the court staff and not by personnel of this Department. [CALEA 74.1.3a]
4. To ensure maximum service efficiency, AWSS interfaces with the statewide Wanted Persons System (WPS). Central Warrant Repository (CWR) enters, updates and cancels all WPS entries for all Orange County law enforcement agencies. [CALEA 74.1.3a,e]
5. The system is designed to provide enough information to determine whether a subject has a warrant and to arrest the person solely relying on the responses from the system. Communications personnel will however confirm the validity. Inquiries by names, single address, range of addresses, partial and complete vehicle license number, court warrant number, warrant file number and agency are possible with the Automated Warrant Service System. [CALEA 74.1.3b,d]
6. The Automated Warrant Service System allows for access to all active warrants without having to maintain hard copies of documents. [CALEA 74.1.3c]
7. Records in the Automated Warrant Service System include the following information [CALEA 74.1.3c]:
  - a. Name of wanted person
  - b. Address and identifiers on wanted person
  - c. Warrant type (bench warrant, traffic or criminal)
  - d. Originating agency identifiers [CALEA 74.1.3b]
  - e. Bail amount
  - f. Court warrant number
  - g. Warrant file number
8. Abstracted warrants contain this information and the date and time the warrant was received and served. It also will note the agency and officer of service.
9. When issued an arrest warrant is valid until it is served or until it is cancelled by a judge.
10. This Department has recently obtained the ability to obtain a listing of all active agency warrants in the Automated Warrant Service System. This allows us to verify information and to perform follow-up on attempted service of warrants for agency cases. [CALEA 74.1.3d]

**B. Service of warrants**

1. Arrest warrants will be executed by sworn peace officers only. [CALEA 74.3.2]
2. When an individual is contacted, the officer will have Dispatch confirm through the system that a valid warrant is outstanding.
3. 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).

4. 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. The Department case number will serve as the Department reference number for the warrant. This report will indicate the date, time and location of the arrest, and information on the suspect including name, date of birth and social security number. The Arrest Report will also note information of the warrant such as charge, originating agency, and officers involved. [CALEA 74.1.2a,b,c,d,e]
5. The arresting officer will affix an Automated Warrant Return Label to the back of the warrant printout that indicates the service of the warrant. This label notes the date served, the officer and agency serving the warrant and the disposition of the defendant. [CALEA 74.1.2a,b,c,d,e]

C. Warrant Service Binder [CALEA 74.1.3c]

1. A Warrant Service Binder is maintained in briefing.
2. It contains hard copies of active warrants involving CSU Fullerton cases as determined by a query of the Automated Warrant Service System.
3. At the beginning of each shift the watch commander should review the binder to determine if there are any active warrants that officers could potentially serve.
4. The binder contains a record of attempted services for each warrant and documents:
  - a. Date and time service was attempted or executed [CALEA 74.1.2a];
  - b. Name of officer attempting or executing service [CALEA 74.1.2b];
  - c. Name of person on whom warrant was served [CALEA 74.1.2c];
  - d. Reason for non-service or method of service; and [CALEA 74.1.2d]
  - e. Address of attempted service or service. [CALEA 74.1.2e]
5. If it is determined that a suspect is no longer at the address given or if new information is obtained on a possible location of a suspect, the Investigations Sergeant will be notified.

D. Execution of Criminal Process [CALEA 74.3.1]

1. Officers will execute only traffic and criminal warrants. The only exception to this is civil restraining orders. Procedures for execution of restraining orders are noted in General Order 3-5. [CALEA 74.2.1]
2. 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.
3. 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.
4. Individuals arrested outside of this jurisdiction will be brought back to Orange County court. If a warrant is served outside of the immediate

area, the arrestee will be transported to a local facility until transport can be made.

- IV. General Requirements to Fingerprint (Cite and Release cases) [CALEA 1.2.5b]
- A. Pursuant to Section 13150 of the California Penal Code, “For each arrest made, the reporting agency shall report to the Department of Justice, Bureau of Criminal Identification and arrest data described in Section 13125 and **FINGERPRINTS**, except as otherwise provided by law or as prescribed by the Department of Justice.”
  - B. To ensure that DOJ will place a conviction on a criminal history, Live Scan is to be completed on all cite and release cases in which the offense or charge is **RETAINABLE**; this includes juveniles (FBI/DOJ-CA/CA I.D./ DEPT.).
  - C. Retainable Offenses (Fingerprint). - Includes all other penal code offenses and the vehicle code violations on Attachment (A).
- V. Fingerprinting Procedure [CALEA 1.2.5b]
- A. An officer citing a subject on a retainable offense should bring the subject to the Station to conduct fingerprinting. Live Scan fingerprinting will forward the prints directly to the Orange County Sheriff’s database, where they will be forwarded automatically to DOJ.
    - 1. The arresting officer will Live Scan fingerprint the subject. No cards need to be printed.
    - 2. The officer must fill in all mandatory fields in Live Scan including the Department case number, any aliases, physical description, charge and date of arrest. Case number must be followed by an Alpha character.
    - 3. When fingerprinting juveniles, the officer must also include the final disposition, i.e. released to parents, released to juvenile hall, petition requested, etc.
    - 4. The “Caution” box should be checked if the subject is dangerous, armed or suicidal, in which case the specific reason for the caution should be stated in the ICO area.
    - 5. If a photo or palm prints have been taken of the subject, then mark the appropriate area.
  - B. Each time an arrest is made fingerprints must be done regardless if we have fingerprinted him/her before. DOJ requires fingerprint impressions for **EACH** arrest made to ensure that positive identification can be made.
  - C. Make certain that all fingerprint impressions are legible, fully rolled, and classifiable. Never submit rejected or “mismatched” prints.

- D. Once the subject is fingerprinted, fill in the Live Scan log with name, date, officer ID number, and any problems.

VI. Alternatives to Arrest [CALEA 1.2.6]

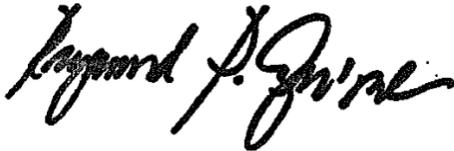
- A. California State University Fullerton Police Officers may exercise alternatives to arrest based on the individual circumstances of each situation. The officer with discretion, taking into consideration the severity of the crime or violation and also considering the conduct of the suspect and the suspect's past criminal history, utilizes alternatives to a custodial arrest. [CALEA 1.2.7]
- B. Whenever possible or appropriate, officers are encouraged to exercise alternatives to physical arrest.
- C. Some alternatives are as follows:
1. Verbal warning (provided the violation is minor);
  2. Referral (campus disciplinary citation) to the office of the Dean of Students/Student Conduct for student code of conduct violations;
  3. Infraction ticket;
  4. Release to parents (if juvenile);
  5. Referral to social services; and
  6. Referral to Department of Housing and Residential Life for violations that occur in Student Housing.
- D. Officers will use discretion when selecting the appropriate course of action in each situation, taking into account the person's past history, age, state at the time of the incident, attitude, and other extenuating circumstances. [CALEA 1.2.7]
1. 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.
  2. If a question arises concerning the use of an alternative, officers should contact the watch commander to resolve the matter.
- E. Procedures for alternatives to arrest:
1. Verbal warning:
    - a. May be issued for misdemeanor or petty offenses.
    - b. Document using a Field Interview Card (FI card) and notation in RIMS.
    - c. Make a referral if appropriate.
  2. Referral (Campus Disciplinary Citation) to Student Conduct in the Dean of Students office.
    - a. Officer
      - 1) Use as an alternative to arrest with the Watch Commander's approval.
      - 2) Indicate a referral to Student Conduct at the top of the Incident/Offense report if a report is written.
      - 3) Complete and issue a Campus Disciplinary Citation to the subject. Give the pink copy to the violator, the yellow

copy will be maintained on file in Records, and the white copy will be forwarded to Student Conduct.

- b. Watch Commander;
    - 1) Approve and forward with comments, as needed, to Investigations.
    - 2) Advise the Dean of Students 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 Conduct to discuss the incident.
    - 3) Provide feedback to officers about the disposition of the referral.
- F. Role in Criminal Justice and Social Service Diversion Programs – There are occasions where based on the situation referral to a diversion program may be more appropriate than arrest. [CALEA 1.1.3]
- 1. Diversion programs for students include referral to Student Conduct and to Counseling and Psychological Services.
    - a. Both of these programs provide assistance for drug and alcohol issues and utilize awareness and training to assist with these concerns.
    - b. Counseling and Psychological Services provides assistance with mental health concerns.
  - 2. Communications has the Resource Directory that contains information on Orange County resources that can be utilized for referral.

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