



Kern County Sheriff's Office

Policies and Procedures

TITLE: PRIVATE PERSON’S ARREST			NO: H-1050
APPROVED: Donny Youngblood, Sheriff-Coroner			
EFFECTIVE: May 21, 2003	REVIEWED: 10/20/2020	REVISED: 00/00/00	UPDATED: 1/17/2018

POLICY

It is the policy of the Kern County Sheriff's Office to carefully and objectively evaluate private person arrests and, where it is lawful to do so, accept and properly process the person arrested.

DIRECTIVE #1

Officers presented with a situation in which someone wishes to make a private person arrest should be aware of the following provisions of the law:

Penal Code § 837 provides in part that:

- A private person may arrest another for a public offense committed or attempted in his/her presence.

However, notwithstanding this provision of state law, officers must be aware that, under federal interpretations of the Fourth Amendment to the United States Constitution, any action by an officer in which a person is taken into custody — i.e., deprived of their liberty — must be supported by probable cause to believe that a public offense has occurred and that the person being taken into custody committed that offense.

With these provisions of the law in mind, officers presented with a situation in which a private person expresses the desire to place another person under arrest, pursuant to the private person arrest authority of Penal Code § 837, shall:

PROCEDURE A: Probable Cause to Arrest

- Prior to accepting the custody of the private person arrestee, make reasonable efforts to obtain all information relevant to the issue of whether a criminal offense has occurred and whether the person to be arrested is the one who committed that offense.
- Where it appears from the objective evaluation of circumstances and evidence that there is probable cause to believe a criminal offense occurred and the person to be arrested is the one who committed that offense, the officer shall:
 - o accept custody of the arrestee; and

- o process the arrestee accordingly, i.e., citation release, booking and release, incarceration, etc.

PROCEDURE B: No Probable Cause to Arrest

- Based upon the officer's objective evaluation of circumstances and evidence, that there is no probable cause for the arrest, the officer shall:
 - o carefully explain to the person wishing to make the private person arrest that the legal requirement for acceptance of custody by the officer requires the presence of probable cause to arrest, as well as the facts and circumstances which indicate to the officer an absence of probable cause;
 - o encourage the person wishing to make the arrest to have the matter handled by submission of a crime report for further investigation by detectives and/or evaluation of criminal charges by the District Attorney;
 - o if the person insists on making the arrest, **the officer shall refuse to accept custody of the arrestee;**
 - o complete a report detailing all of the allegations, facts, circumstances, and evidence bearing on the officer's determination to refuse to accept custody.

DIRECTIVE #2

- Officers should seek advice from a supervisor or the watch commander when there is any question in the mind of the officer as to how to proceed regarding a private person arrest.

H-1050-2

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