



KERN COUNTY PROBATION DEPARTMENT

Policies And Procedures

TITLE: Arrests			Article: 1711
APPROVED: Willaim Dickinson, Chief Probation Officer			
EFFECTIVE: January 2018	REVIEWED: August 2018	REVISED: September 2024	UPDATED: January 2018

POLICY

This policy statement sets forth in general terms the legal authority for sworn Probation staff to make arrests and the procedures to be followed when an arrest is made. This policy also indicates the department's philosophy regarding Probation staff making arrests, There are few other situations which Probation staff encounter that create as much liability or threats of personal injury as does the situation of making an arrest. If any questions arise regarding the department's arrest policy after reviewing this writing, please contact your Supervisor or Division Director for clarification.

PROCEDURE

The Kern County Probation Department views the role of Probation staff in a proactive way. In that context, given the legally sanctioned authority to effect arrests as peace officers, this policy statement will cover the procedures of arrest approved by the Department.

I. LEGAL AUTHORITY

Probation officers and sworn employees are classified as peace officers in Section 830.5 of the Penal Code. They may carry and use firearms while on duty if authorized by the Chief Probation Officer subject to the terms and conditions of Department policy.

- A. Peace officer powers of a probation officer are limited under Section 830.5(a) to:
 - 1. The conditions of parole or of probation by any person in this state on parole or probation.
 - 2. The escape of any inmate or ward from a state or local institution.
 - 3. The transportation of persons on parole or probation.
 - 4. Violations of any penal provisions of law which are discovered while performing the usual or authorized duties of his/her employment.

5. The rendering of mutual aid to any other law enforcement.

"Probation" as used in this section includes any person on post-release community supervision and mandatory supervision.

- B. Section 1203.2 of the Penal Code: This Section defines the authority of a Probation Officer to re-arrest an adult probationer at any point during his/her probationary period.
- C. Section 625 (b) of the Welfare and Institutions Code: This Section defines the authority for Probation staff, without a warrant, to take a minor into temporary custody who has violated an order of the Juvenile Court or has escaped from any commitment ordered by the Juvenile Court.
- D. Section 833 through 851.6 of the Penal Code defines peace officers' authority, definition, and procedures for making arrests.

II. QUALIFICATION

- A. All Probation Officers shall complete Penal Code Section 832 training, including firearms qualifications.
- B. Armed Probation Officers shall comply with all peace officer qualifications and comply with the Kern County Probation Department's firearms policy.

III. GENERAL DIRECTIVES:

Probation Officers will consider themselves peace officers having peace officer powers while engaged in assigned departmental duties. The training, experience, and qualifications of each staff will determine the level of aggressiveness such staff brings to any situation which requires arrest or intervention.

When an officer discovers a violation of probation by a probationer, it is that officer's duty to take action. This action may vary according to case circumstances and the severity of the violation. The normal reaction to a probation violation is to initiate a Court hearing by either arresting the probationer or citing him/her into Court. Any other action should be discussed with and approved by the Unit Supervisor.

When an officer who is on duty and performing the usual or authorized duties of employment discovers a law violation by a non-probationer, the officer has the discretion to act or not act. The severity of the violation, training and experience are factors the officer should consider.

Probation staff are subject to call by Probation Administration during off-duty hours and are considered to have peace officer powers during such call. Officers while off-

duty do not have peace officer powers. Consequently, off-duty arrests with respect to probationers and other individuals are at the discretion of the officer who will be acting on his own as a private citizen. The department will not assume civil liability with respect to such arrests.

IV. ARREST PROCEDURES:

- A. No Probation staff shall make an arrest without having completed Penal Code Section 832 training.
- B. Probation home calls and general field activities, excluding transports, shall be conducted with a minimum two-officer team, unless supervisor approval has been given for a solo-officer probation home call or field activity.
- C. When Probation staff actively engaged in duties discover new law violations in the course of such duties, a decision shall be made whether or not to request law enforcement agencies to initiate an investigation of the new violation or whether Probation staff shall conduct the investigation.
- D. When Probation staff effect an arrest, the subject will be patted down for weapons prior to being handcuffed, preferably in the back. The subject will then be searched for contraband. In the event the circumstances dictate the subject be handcuffed prior to a pat down, officers should immediately search the area adjacent to the subject's hands then finish the pat down and contraband search when appropriate."
- E. On any occasion during which extreme force is used to effect an arrest, immediate verbal notification shall be made to the officer's immediate supervisor, who will make notification through a Division Director to the Deputy Chief Probation Officer. In case of injury to the officer or other person, a written report shall follow the verbal report by the following work day. Written reports may be required upon supervisory or management request even if no injury occurs.
 - 1. Extreme force is defined as any force likely to produce injury, but which is required to overcome efforts by an individual to escape, avoid arrest, or assault an officer.
- F. Probation staff will advise the prisoner of:
 - 1. The reason for the arrest;
 - 2. The right to telephone calls after booking;
 - 3. Miranda rights if the individual is to be questioned.

Senate Bill 395 took effect January 1, 2018. The provisions of this Bill require youth ages 15 and under to consult with legal counsel in person, by telephone or video conference when a custodial interrogation takes place regarding a new law violation. This consultation may not be waived by the minor. Probation Officers and Juvenile Corrections Officers are not required to comply with this rule in the normal performance of their duties when not investigating a new law violation.

- G. If Probation staff effect the arrest, the prisoner shall be transported in probation vehicles, if law enforcement assistance has not been requested. It is advisable prior to placing the handcuffed prisoner in the vehicle the seating area be searched.
- H. The prisoner shall be secured by a seat belt in the vehicle.
- I. The arrested prisoner shall then be transferred directly to a detention facility. When officers transport prisoners of the opposite gender, upon leaving the arrest location the starting mileage and time shall be transmitted by radio or telephone to a base station. The ending mileage and time shall be transmitted immediately upon arrival at the detention facility.