

Date Revised: 9/16/2019

Course Goal: To introduce the recruit officers to arrests.

Learning Objective:

- Recognize when there is probable cause for arrest [\[15.4.A\]](#)
- Identify elements of a lawful arrest [\[15.4.B\]](#)
- Differentiate between arrest and detention [\[15.4.C\]](#)
- Recognize information that must be given to an arrested person [\[15.4.D\]](#)
- Recognize elements of a warrantless arrest for a misdemeanor [\[15.4.E\]](#)
- Recognize elements of a warrantless arrest for a felony [\[15.4.F\]](#)
- Recognize elements of a warrant arrest [\[15.4.G\]](#)
- Recognize the requirements for entry into a dwelling to make an arrest [\[15.4.H\]](#)
- Recognize the authority for a private person arrest and the peace officer’s duty in response to a private person arrest [\[15.4.I\]](#)
- Recognize conditions under which the use of force or physical restraint is appropriate during an arrest [\[15.4.J\]](#)
- Recognize the statutory requirements for the disposition of an arrested person [\[15.4.K\]](#)
- Recognize the exceptions to the powers to arrest [\[15.4.L\]](#)

Session Time: 3 Hours

Resources:

- Classroom with tables
- Overhead projector
- Computer with multimedia software and Microsoft PowerPoint
- Handout: SPICE / PePPER Chart

Summary: The instructor will lead a facilitated discussion accompanied with learning activities with the whole class.

Outline	Instructor’s Notes
I. Arrest: taking a person into custody, in a case and in the manner authorized by law A. Probable Cause for Arrest [15.4.A] 1. Definition a. A set of facts that would cause a person of ordinary care and prudence to entertain an honest and strong belief that the person to be arrested is	<p><u>TTS 15.4.A - 15.4.F</u></p> <p>Run Learning Activity # 1 – “Arrest” in conjunction</p>

<p>guilty of a crime.</p> <ul style="list-style-type: none">b. Must exist before an arrest is made and is based on the totality of the circumstances.c. Facts required to establish probable cause may include, but are not limited to:<ul style="list-style-type: none">1) Direct investigation or reports2) Circumstantial evidence3) Second-hand statements from reliable sources <p>2. Reasonable Suspicion vs Probable Cause [15.4.C]</p> <ul style="list-style-type: none">a. Possible influence of alcohol / drugs (Reas. Susp) vs Illegal level intoxication (Prob Cause)b. Actions/words/demeanor during detention (Reas. Susp) vs Self-incrimination, contraband (Prob Cause)c. Erratic driving vs DUI, contrabandd. Pat search for weapons vs Possession of weapons, contrabande. Possible connection to burglary vs Discovery of stolen property <p>3. Individual officer's expertise and specialized training can determine probable cause and can differ among officers.</p> <p>B. Elements of a Lawful Arrest [15.4.B]</p> <ul style="list-style-type: none">1. Peace Officer Authority to Arrest<ul style="list-style-type: none">a. PC 836 establishes the legal basis for an arrest by peace officers.b. Officers may make an arrest:<ul style="list-style-type: none">1) Pursuant to a warrant2) Without a warrant<ul style="list-style-type: none">a) Whenever they have probable cause to believe the person committed a felony or misdemeanor in their presence;b) When the person committed a	<p>with PowerPoint Slides # 2 – 7.</p> <p>Note: See last page for learning activity # 1</p>
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<p>felony, although not in the officer's presence;</p> <p>c) Whenever they have probable cause to believe the person has committed a felony, whether or not a felony has in fact been committed.</p> <p>2. In Officer's Presence</p> <p>a. Includes officer's senses, such as hearing, sight, and smell.</p> <p>b. Senses can be enhanced with tools</p> <ol style="list-style-type: none">1) Binoculars2) Dogs3) Flashlights4) Telephone5) US Supreme Court has ruled some use of thermal imaging constitutes a search <p>3. Information required at time of arrest</p> <p>a. PC 841 requires 3 things be conveyed to the arrestee at time of arrest</p> <p>[15.4.D]</p> <ol style="list-style-type: none">1) Intent- Must tell the individual that he or she is being arrested2) Cause- Must state the reason for the arrest (e.g., an outstanding warrant, or the name of the offense).3) Authority<ol style="list-style-type: none">a) A non-uniformed officer must show identification.b) A uniformed officer and / or marked car satisfies this requirement (no ID required).c) A private person must state his or her authority to make the arrest. <p>b. Two situations where arresting person does not need to communicate the three are when the suspect is:</p> <ol style="list-style-type: none">1) Actually committing the offense2) Attempting to escape	
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<p>C. Warrantless Arrests for Misdemeanors and Felonies [15.4.F]</p> <ol style="list-style-type: none">1. Conditions for warrantless felony arrests<ol style="list-style-type: none">a. Committed a felony in the officer's presence (PC 836(a)(1))b. Committed a felony, although not in the officer's presence (PC 836(a)(2))c. Committed a felony, regardless of whether or not the felony was, in fact, committed (PC 836(a)(3))2. Conditions for warrantless misdemeanor arrests [15.4.E]<ol style="list-style-type: none">a. Probable cause in officer's presence (PC 836(a)(1)).b. Can make warrantless arrests for offenses not committed in officers' presence when:<ol style="list-style-type: none">1) Committed by a juvenile (Welfare and Institutions Code Section 625)2) Any of the following seven violations:<ol style="list-style-type: none">a) DUI (Vehicle Code Sections 40300.5 and 40600)b) Carrying a loaded firearm on an individual's person or in a vehicle while in any public place or on any public street (PC 25850(a))c) Violating a domestic protective or restraining order, when the officer was responding to a call alleging the same (PC 836(c)) (Mandatory arrest)d) Committing an assault or battery on a spouse, cohabitant, or a parent of their child (PC 836(d))e) Committing an assault or battery on school property while school is in session (PC	
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<p>243.5)</p> <ul style="list-style-type: none">f) Committing an assault or battery against a working firefighter, emergency medical technician, or mobile intensive care paramedic (PC 836.1)g) Carrying a concealed firearm at an airport (PC 836(e)(1)(2)) <p>3. Times of Arrest</p> <ul style="list-style-type: none">a. Warrantless arrests for felonies: any time of day or night on any day of the week. (PC 840)b. Warrantless arrests for misdemeanors or infractions: between 6 a.m. and 10 p.m. (PC 836), unless the person:<ul style="list-style-type: none">1) Commits the crime in the officer's presence2) Is arrested in a public place3) Is already in custody pursuant to another lawful arrestc. Note: A public place is a location readily accessible to all those who wish to go there including law enforcement. <p>4. Officers acting within agency policy and lawful scope of their authority are protected from prosecution for false arrest or imprisonment</p>	
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- SPICE / PePPer Chart [LAPD]
 - Incident to Arrest Search Person
 - Purpose
 - Protect officers from harm
 - Avoid evidence destruction
 - Remove implements of escape
 - Scope of search
 - Arms reach
 - Personal belongings
 - Necessary Conditions
 - Prob cause for lawful arrest
 - Suspect in custody
 - Search contemporaneous w / arrest

Show video labeled “Video Scenario # 1” (.5 Hour) with **PowerPoint Slides # 8 – 18.**

- Gang officers conducted extra patrol at a party location possibly frequented by gang members. As the officers approached the location, they observed a male suspect walking away from the direction where the party was located. The suspect’s actions and demeanor appeared to be consistent with someone carrying a firearm. The officers continued to the party location (1 block away) and observed that there was minimal activity at the location. The officers drove around the block, observed, and detained the suspect.
- An additional unit retraced the suspect’s path and recovered a sawed-off .410 caliber shotgun. The officers subsequently arrested the suspect for possession of a prohibited weapon.
- Allow the learning teams to discuss the video vignette and debrief utilizing CAPRA. **Ask** the following questions:
 - Was the detention legal? Why or why not?
 - Was the patdown search legal? Why or why not?
 - Was there probable cause to arrest?
 - Were there any other searches justified? Why or why not?
 - Articulate & explain
- Show video “Probable Cause Video # 1”
- Show video “Probable Cause Video # 2”
- Fill out SPICE / PePPer chart

D. Warrant Arrests

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<p>1. Definition [1] [15.4.G]</p> <ul style="list-style-type: none">a. An arrest warrant is a written order signed by a magistrate which directs and commands a peace officer to arrest the person named in the warrant for the offense named in the warrant.b. Probable Cause necessary to obtainc. Without consent, exigencies, or parole / probation authority, arrest warrant necessary to lawfully enter a dwelling and make arrest <p>2. Contents, required by PC 815 [2]</p> <ul style="list-style-type: none">a. Name of the defendantb. Crime the defendant is suspected of committingc. Time the warrant is issuedd. City or county where the warrant is issuede. Signature of the issuing authority with the title of officef. Name of the court or other issuing agencyg. Amount of bail <p>3. Pre-Complaint Warrants (Ramey Warrants) [3]</p> <ul style="list-style-type: none">a. PC Section 817 allows an arrest warrant before a criminal complaint has been filed.b. Contains the same information as other arrest warrants and are also issued based on sworn statements (affidavits) establishing probable causec. Steps for obtaining pre-complaint warrant:<ul style="list-style-type: none">1) Officer makes a written or oral statement of probable cause (affidavit)2) Magistrate evaluates the information to assess if probable cause exists3) If magistrate finds probable cause	<p><u>TTS 15.4.G</u></p> <p>PowerPoint Slide # 19</p> <ul style="list-style-type: none">• Explain everything covered with arrests up to here is common material that is encountered as patrol officers. The remaining material involving arrests go beyond observations made during patrol and is important additional information involving arrests.• Ask: Does anyone know what an arrest warrant is? [1]• Ask: What would be important to know on a warrant if you were to arrest someone? [2]• One type of warrant is issued after a criminal complaint has been filed with the DA / CA. Ask: Is it possible to obtain an arrest warrant before a criminal complaint is filed? [3]
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<p>exists, an arrest warrant is issued</p> <ol style="list-style-type: none">4) Subject named in the warrant is arrested5) Criminal complaint may subsequently be filed pursuant to PC Section 849 <p>d. Time of arrest</p> <ol style="list-style-type: none">1) Anytime for felony (PC Section 840)2) Misdemeanors: 6am - 10pm unless endorsed for nighttime service (PC Section 840) <p>E. Entry Into a Dwelling to Make an Arrest</p> <ol style="list-style-type: none">1. Knock and Notice [15.4.H]<ol style="list-style-type: none">a. Before entering, with or without a warrant, officers must give notice to the person inside. (PC 844).b. If officers see contraband or evidence in plain view from a lawful location, they cannot automatically legally enter private property without a warrant to seize itc. Lawful access to private property is most commonly obtained by:<ol style="list-style-type: none">1) Consent2) Exigent circumstances3) Entry for some other purpose (e.g., parole or probation search, etc.)d. Knock and Notice Procedure<ol style="list-style-type: none">1) Announce their presence2) Identify themselves as peace officers3) State their purpose4) Demand entry5) Wait a reasonable amount of time (based on circumstances)6) If necessary, forcibly enter premisese. Exceptions to Knock and Notice<ol style="list-style-type: none">1) At the scene the officer is given consent to enter	<p><u>TTS 15.4.H - 15.4.L</u></p> <p>Run Learning Activity # 2 in conjunction with PowerPoint Slides # 20 – 21.</p> <p>Note: See last page for learning activity # 2</p>
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<ul style="list-style-type: none">2) When exigent circumstances exist<ul style="list-style-type: none">a) Hot pursuitb) Imminent threat<ul style="list-style-type: none">(1) To life (including the officer's)(2) To property (e.g., smell of natural gas)(3) Of the suspect's escape(4) Of the destruction of evidence or contraband3) Officer possesses a "no knock" warrant <p>F. Private Person Arrest [15.4.I]</p> <ul style="list-style-type: none">1. Conditions<ul style="list-style-type: none">a. Private person is authorized to make both felony and misdemeanor arrests. (PCs 834 and 837)b. Conditions are similar to peace officer arrests regarding the use of force and the information that must be supplied to the arrested person. (PC 841)2. Required Actions<ul style="list-style-type: none">a. PC 847, When making a private person arrest, the person is required to:<ul style="list-style-type: none">1) Take the person before a magistrate2) Deliver the arrested person to a peace officer3. Private Person & 4th Amendment Search & Seizure<ul style="list-style-type: none">a. Fourth Amendment protects citizens from government, not other private citizensb. A private person can make warrantless entries only for felonies.4. Officers refusing to receive arrest: PC 142(c) allows officers to release arrested or refuse arrest5. Disposition<ul style="list-style-type: none">a. Release<ul style="list-style-type: none">1) Can release unconditionally if	
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<p>officer is satisfied there are insufficient grounds for filing a criminal complaint. (PC 849(b)(1))</p> <p>2) Document with signed certificate that arrest was deemed a detention (PC Sections 849(c) and 851.6)</p> <p>b. Citation</p> <p>1) If arrest was for a misdemeanor, if arrestee does not demand to be taken before a magistrate, and none of the statutory reasons for denying release exist. (PC Section 853.6(i))</p> <p>2) Depending on agency, private person may be required to sign as arresting party</p> <p>c. Take arrested to "... magistrate," (PC Section 849(a)), otherwise, the take to jail for booking and either bail or arraignment and then file a criminal complaint.</p> <p>Officers who receive privately arrested person may not be held civilly liable for false arrest or imprisonment (PC 836.5).</p> <p>G. Use of Force / Physical Restraint During Arrest [15.4.J]</p> <p>1. PC 835a authorizes peace officers to use force that is reasonable and necessary to make an arrest, prevent escape, or overcome resistance.</p> <p>2. Individuals are not permitted to resist arrest by peace officers because they can take legal and / or civil action for a false arrest.</p> <p>H. Disposition of Arrestees [15.4.K]</p> <p>1. Warrant</p> <p>a. Proceed as commanded by the warrant (PC Section 848).</p>	
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<ul style="list-style-type: none">b. Misdemeanors may be cited and released or transported to jail (PC Section 827.1).2. Infraction<ul style="list-style-type: none">a. Normally cite and release and arrestee must sign notice to appear (PC Section 853.5).b. May be taken into custody if fail to present satisfactory identification, refuses to sign the written promise to appear, or any other exceptions listed in PC 853.6i exist.3. Warrantless Misdemeanor Arrests and Release<ul style="list-style-type: none">a. PC 853.6 requires cite and release in lieu of custody.b. Sign promise to appear or post bail4. Exceptions to misdemeanor cite and release/reasons for non-release [15.4.L]<ul style="list-style-type: none">a. Arrested was so intoxicated that he or she could have been a danger to himself or herself or to othersb. Arrested required medical examination or medical care or was otherwise unable to care for his or her own safetyc. Arrested under one or more of the circumstances listed in VC Sections 40302 and 40303d. Was one or more outstanding arrest warrants for the persone. Could not provide satisfactory evidence of personal identificationf. The prosecution would be jeopardized by immediate release of the person arrestedg. Reasonable likelihood that the offense or offenses would continueh. Safety of persons or property would be imminently endangered by release of arrestedi. Arrested demanded to be taken before	
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<p>a magistrate or refused to sign the notice to appear</p> <ul style="list-style-type: none">j. Reason to believe that the person would not appear at specified time and place.k. The person was subject to Section 1270.1 <p>5. Domestic violence / abuse exceptions- Officers must arrest</p> <ul style="list-style-type: none">a. For a misdemeanor violation of a protective court order involving domestic violence as defined in PC Section 13700 .b. Pursuant to agency policy for responding to domestic violence calls per PC 13701. <p>6. Warrantless Arrest Releases- Officers can release a suspect arrested without a warrant:</p> <ul style="list-style-type: none">a. When there are insufficient grounds for criminal complaint.b. When the person was arrested for intoxication only and no further proceedings are desirable.c. When the person was arrested only for being under the influence of a controlled substance or drug, is delivered to a treatment facility or hospital, and no further proceedings are desirable. <p>7. Probable Cause Determination: Individuals arrested without a warrant must be given a judicial determination of probable cause within 48 hours after the arrest, including weekends and holidays.</p> <p>8. Phone Calls</p> <ul style="list-style-type: none">a. After being booked, and within three hours of being arrested, an arrested adult must be allowed to make at least three completed phone calls. (PC Section 851.5)b. Juveniles shall, immediately after	
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<p>being taken to a place of confinement and, except where physically impossible, no later than one hour after being taken into custody, be advised of their right to make at least two telephone calls. (Welfare and Institutions Code 627 (b))</p> <p>c. Failure to provide phone calls is a misdemeanor.</p> <p>9. Visitations</p> <p>a. After arrest, an attorney licensed to practice law in California can visit anytime, day or night.</p> <p>b. Refusal to allow attorney visit is misdemeanor and \$500 fine.</p> <p>c. A physician, surgeon, or an attorney who is employed by the arrested person in preparation for the defense is allowed to visit at any time. (PC 825.5)</p> <p>I. Immunity and Statute of Limitations</p> <p>1. Stale Misdemeanor</p> <p>a. Exists when an adult commits a misdemeanor in another person's presence (including a peace officer) and the person fails to arrest the adult within a reasonable time thereafter.</p> <p>b. Reasonable time thereafter means the officer must have been in fresh pursuit. After that time, need a warrant.</p> <p>c. After that time, an officer can detain and gather information.</p> <p>2. Statute of Limitations</p> <p>a. Most misdemeanors- one year</p> <p>b. Most felonies- three years</p> <p>c. Crimes punishable by death or life in prison- no limit</p> <p>d. Sex crimes, crimes against children, and others- varies according to crime even with statute limitations, officers can still conduct investigations.</p>	
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Learning Activity # 1 – Arrests

Purpose: To introduce recruits to terms, concepts, and laws related to arrests.

Description:

1. The Fourth Amendment requires probable cause to make arrests and conduct searches because these actions infringe on a person's privacy. Officers need to understand the laws and apply them accordingly during the performance of their duties.
2. Divide the class into learning teams of six to eight recruits.
3. Assign each table one of the following topics:
 - a. Definition of arrest
 - b. Probable cause vs. reasonable suspicion
 - c. Training and experience
 - d. Elements of arrests
 - e. Arrests vs detentions
 - f. Penal code section 836
 - g. In the officer's presence
 - h. Information at the time of arrest
 - i. Warrantless arrest for felonies
 - j. Warrantless arrest for misdemeanors
 - k. Times when arrests may be made
4. Have the learning teams discuss their topic and develop examples and /or scenarios to describe their topic.
5. Have the learning teams present their topics and ensure to discuss TTS' 15.4.A - 15.4.F
6. Include in discussions the importance of constitutional policing with arrests and the role of the Department Core Values and leadership.

Resources needed:

- Classroom
- Projector
- Computer with multimedia software

Handouts:

- None

Time required: 1.5 Hours

Learning Activity # 2

Purpose: To continue exploring the terms, concepts, and laws related to arrests.

Description:

1. Divide the class into learning teams of six to eight recruits.
2. Provide each learning team with the below listed scenario.
3. Utilizing CAPRA, allow the learning teams to discuss the scenario and develop an investigative response, which is determined by the recruits' retention / knowledge of the law and tactics from previous sessions.
 - a. If needed, provide brief explanation of a theft.
 - b. If needed, provide brief explanation of misdemeanor vs felony crimes.

Scenario:

“Shoplift just occurred. Meet the P/R in front of the Best Buy who will direct to the suspect.”

Upon officers' arrival, they were met by the P/R who stated that she was the manager of Best Buy. The P/R stated that yesterday the suspect entered the store, took several Video games totaling \$300, and left without paying for them. Today, security observed the suspect loitering in the parking lot and discreetly followed him to his home.

4. Conduct a facilitated discussion and have the learning teams present their investigative response. Ensure to cover the following:
 - a. **ASK:** May the officers enter the location to arrest the suspect? [15.4.H]
 - b. **ASK:** May the officers arrest the suspect?
 - c. Private Person's Arrest [15.4.I]
 - d. Appropriate use of force or physical restraint during arrest. [15.4.J]
 - e. Exceptions to Power of Arrest [15.4.L]
 - 1) Immunity - an exemption from a duty or penalty
 - 2) Stale misdemeanor rule
 - 3) Statute of Limitations [15.4.K]
 - f. **EXPLAIN** the above scenario falls under the stale misdemeanor rule.
 - g. Warrant arrests [15.4.G]
 - 1) Pre-complaint warrants (AKA Ramey Warrants)
 - 2) Explain the warrant process vs. the pre-complaint warrant process

Resources needed:

- Classroom

Handouts:

- None

Time required: 1 Hour