



SACRAMENTO POLICE DEPARTMENT GENERAL ORDER



538.02 TRESPASS VIOLATIONS 09-10-14

PURPOSE

The purpose of this order is to establish procedures for the enforcement of trespass violations.

POLICY

It shall be the policy of the Sacramento Police Department to enforce trespass violations.

PROCEDURE

A. DEFINITIONS

1. Owner - The actual owner of the property, a lessee or other person in charge of the private property or business premises.
2. Designated agent - Any person or organization (e.g., private security company) expressly authorized by the owner of the private property or business premises to issue a notice of trespass on the owner's behalf.
NOTE: Sacramento Police Department employees shall not be a designated agent for an owner except under specific circumstances listed in Section B.
3. Notice of Trespass (SPD 114) – Department form issued to a person advising the subject he or she will be arrested upon returning to the identified property or if they refuse to leave the identified property.
4. Notice of Agency (SPD 116) – Department form that authorizes a designated agent to act on behalf of the owner. The form is completed by the owner and kept by the owner and designated agent and shall be made available upon request by SPD employees.

B. GENERAL

1. Officers responding to or on-viewing a trespass violation shall determine if:
 - a. an owner or designated agent is present at the location.
 - b. the suspect has previously been issued a SPD 114 by checking RMS, county records and documents provided by the owner/designated agent.
2. Officers shall enforce any valid SPD 114 the business has on file.
NOTE: If the suspect is arrested for trespassing, the officer(s) shall document the original case number and circumstances surrounding the original issuance of the SPD 114 in the trespassing crime report.
3. Officers shall assist the owner or designated agent with service of the SPD 114 if one was not previously issued (see below for issuance procedures).
4. Sacramento Police Department employees shall not be a designated agent for the issuance of a Notice of Trespass (SPD 114) except when:
 - a. officers are providing contract service (e.g., supplemental employment, hospital contract unit, SRO, etc.).
 - b. approval has been given by a Lieutenant or above to address a specific problem location for a limited duration.
NOTE: Every effort should be made to have a designated agent, other than an officer, issue the SPD 114. If an officer does become a designated agent, the property owner must grant the authority to do so by signing the SPD 116.
5. Schools are not bound by conventional rules related to trespassing. Officers dealing with a trespass situation at a school shall refer to § 626.8 PC.
NOTE: Warning signage is not required and the penal code authorizes officers to make the arrest on behalf of the school.



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C. NOTICE OF TRESPASS (SPD 114) HAS NOT PREVIOUSLY BEEN ISSUED

1. Anytime the suspect **HAS NOT** previously been issued a Notice of Trespass for the property in question, officers shall
 - a. Verify the identity of the suspect.
 - b. Contact the owner or designated agent.
 - c. Have the owner/designated agent complete a Notice of Trespass (SPD 114); if they desire one be issued. A copy of the completed SPD 114 shall be given to the owner/designated agent and the suspect.
 - d. Obtain a statement from the owner/designated agent as to how the subject has interfered with the property and/or why they no longer wish for the person to be on their property.
 - e. Advise the suspect to leave immediately. If the suspect refuses to leave and prosecution is desired, officers shall refer to Section E.2. to determine appropriate enforcement action.
 - f. Add a remark on the call indicating the name, DOB, and XREF of the subject(s) served with the SPD 114 and the property the subject is not permitted to enter or remain upon.
 - g. Complete a trespass incident report. If a suspect is arrested for other charges, a separate trespass report shall be completed.
 - h. Forward the Notice of Trespass (SPD 114) to Records for scanning.
 - (1) After scanning, Records shall forward the original SPD 114 to the appropriate patrol station for entry into the subject's County Remarks screen.
 - (2) The administrative staff at each patrol station shall enter the remarks into the subject's County screen and discard the original SPD 114.

D. NOTICE OF TRESPASS (SPD 114) HAS PREVIOUSLY BEEN ISSUED

1. If a Notice of Trespass previously was issued, the owner does not need to be present in order for SPD to take enforcement action.
2. When taking enforcement action, officers
 - a. Should have the owner or designated agent sign a private person's arrest form.
 - b. Should photograph or record (via ICC) the subject on the property in violation of the previously issued SPD 114.
 - c. Shall link the new report to the original report in which the subject was served.
 - d. Should refer to Section E.2 to determine the appropriate enforcement action.

E. ENFORCING SACRAMENTO CITY CODE (SCC) 9.16.140 AND/OR PENAL CODE 602(k)

1. Whenever possible, officers taking enforcement action for a trespass violation shall charge the suspect with SCC 9.16.140 (b) (1).
2. Posting requirements
 - a. If the property is **not** posted and the suspect has been served an SPD 114, officers shall only charge the Sacramento City Code violation. The SCC does not require the property be posted.
 - b. If the property is properly posted with "No Trespassing" signs, officers may charge 602(k) PC or the SCC. The Sacramento County District Attorney's Office considers proper posting to consist of "No Trespassing, Private Property" signs.
 - (1) SPD recommends a sign no smaller than eight and one half inches tall by eleven inches wide (8½" H x 11" W).
 - (2) Each sign shall at a minimum read "No Trespassing, Private Property" and be placed at each entrance to the private property.
3. Officers should not take enforcement action if they determine that the facts indicate the situation is a civil dispute. Some situations that may indicate that it is a civil dispute and not a criminal matter are
 - a. Marital and post-marital disputes.
 - b. Child custody or visitation disputes.
 - c. Disputes regarding title to or rights in real property.
 - d. Landlord-tenant disputes.
 - e. Foreclosed homes being occupied by a person claiming occupancy rights.
 - f. Disputes between members of the same family or between persons residing upon the property concerned up until the time of the dispute.
 - g. Employer-employee disputes.



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- h. Business-type disputes, such as those between partners.
- i. Debtor-creditor disputes.
- j. The person claims a right to be present pursuant to order, decree or process of a court.
- k. Businesses complaining about signature gatherers for political purposes and non-profit entities soliciting for donations.

F. PROTECTED SPEECH/FIRST AMENDMENT ISSUES

1. Penal Code section 602.1 deals with trespass at a privately-owned business (e.g., large retail store). Per this section, no person may:
 - a. interfere with a lawful business or occupation carried on by the owner or agent of a business open to the public.
 - b. obstruct or intimidate employees or their customers.
 - c. refuse to leave after being requested to do so by the owner/agent or a peace officer acting at the request of the owner/agent.
2. This section does not apply to any person who is otherwise acting lawfully (e.g., not blocking an entrance/exit, not threatening store owners, employees or passers-by, not littering, not blocking traffic, etc.) and engaged in:
 - a. lawful labor union activities that are permitted to be carried out on the property by state or federal law.
 - b. activity protected by the California Constitution or the United States Constitution. Protected activity would include:
 - (1) collecting signatures for petitions.
 - (2) expressing political opinions.
 - (3) collecting donations.
3. Officers presented with incidents listed under sections 2.a. or 2.b. shall notify the district Sergeant as case law in these situations is continuously changing.

G. PRIVATE SECURITY COMPANIES

1. Authorized private security companies may issue Notice of Trespass forms within the City of Sacramento at a specific location(s) where they have been given authority.
2. In order to participate, each security company shall
 - a. Be given authorization by the impacted station Captain.
 - b. Have a valid City of Sacramento Private Patrol Operator Permit on file with the SPD Metro Division.
 - c. Employ licensed/uniformed security officers.
NOTE: Each security officer must complete SPD training prior to issuing a Notice of Trespass.
 - d. Be the agent for the location identified on the SPD 114 being issued. A copy of the Notice of Agency (SPD 116) shall be retained by the security company and presented upon request.
3. Each patrol station shall have a designated Sergeant to conduct training for the authorized security personnel in their districts and approve the related online trespass reports.
4. The designated Sergeants at each patrol station command shall review the security officer's online report to ensure it includes proper documentation for the issuance of the SPD 114.
5. If the Sergeant determines the report needs additional information, the Sergeant shall
 - a. Complete a supplement explaining why the subject served will not have the SPD 114 enforced at this time.
 - b. Ensure that no County system remarks are added regarding the service of the SPD 114.
 - c. Contact the security company to explain the deficiencies in the report and inform them of the additional information needed for future reports and contacts.