

Law Enforcement Authority

102.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the California Department of State Hospitals (DSH) to perform their functions based on established legal authority.

102.2 POLICY

It is the policy of DSH to limit its employees to only exercise the authority granted to them by law.

While DSH recognizes the power of peace officers to make arrests and take other enforcement action, officers are encouraged to use sound discretion in the enforcement of the law. This department does not tolerate the abuse of law enforcement authority.

102.3 HOSPITAL PEACE OFFICER POWERS

The authority of peace officers employed by the California Department of State Hospitals (DSH) is derived from applicable laws of the State of California, found in California Welfare and Institutions Code § 4311, California Welfare and Institutions Code § 4312, California Welfare and Institutions Code § 4313, California Welfare and Institutions Code § 4315, Penal Code § 830.3(v) and Penal Code § 830.38.

102.3.1 HOSPITAL POLICE OFFICER

The authority of Hospital Police Officers extends to any place in the State of California for the purpose of performing their primary duty, or other related law enforcement duties described in applicable laws of the State of California (Pen. Code § 830.38).

These peace officers may carry firearms only if authorized and under terms and conditions specified in this manual by DSH.

102.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE CALIFORNIA DEPARTMENT OF STATE HOSPITALS

The arrest authority outside the jurisdiction of the California Department of State Hospitals includes (Pen. Code § 830.1; Pen. Code § 836):

- (a) When the officer has probable cause to believe the person committed a felony.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in the presence of the officer and the officer reasonably believes there is immediate danger to person or property or of escape.
- (c) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized even if not committed in the presence of the officer such as certain domestic violence offenses and there is immediate danger to person or property or of escape or the arrest is mandated by statute.
- (d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.

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- (e) In compliance with an arrest warrant.

On-duty arrests will not generally be made outside the jurisdiction of this OPS except in cases of hot or fresh pursuit, while following up on crimes committed with the State or while assisting another agency.

On-duty officers who discover criminal activity outside the jurisdiction of the State should when circumstances permit, consider contacting the agency having primary jurisdiction before attempting an arrest.

102.3.3 EXECUTIVE COMMAND STAFF AND INVESTIGATORS

The authority of the Chief of Law Enforcement, Hospital Police Chief, Supervising Investigators, and Investigators of the Office of Protective Services extends to any place in the State of California provided that the primary duty of each of those persons shall be the enforcement of the law relating to the duties of his or her department or office, or to perform other law enforcement duties pursuant to applicable laws of the State of California.

These peace officers identified in this subsection may carry firearms only if authorized and under those terms and conditions as specified by their employing agencies in this manual (Pen. Code § 830.3; Pen. Code § 830.3(v); Pen. Code § 830.38).

102.3.4 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE CALIFORNIA DEPARTMENT OF STATE HOSPITALS

The arrest authority within the jurisdiction of the California Department of State Hospitals includes (Pen. Code § 830.1; Pen. Code § 836):

- (a) When the officer has probable cause to believe the person has committed a felony, whether or not committed in the presence of the officer.
- (b) When the officer has probable cause to believe the person has committed a misdemeanor in this jurisdiction and in the presence of the officer.
- (c) When the officer has probable cause to believe the person has committed a public offense outside this jurisdiction, in the presence of the officer and the officer reasonably believes there is an immediate danger to person or property, or of escape.
- (d) When the officer has probable cause to believe the person has committed a misdemeanor for which an arrest is authorized or required by statute even though the offense has not been committed in the presence of the officer such as certain domestic violence offenses.
- (e) In compliance with an arrest warrant.

102.3.5 TIME OF MISDEMEANOR ARRESTS

Officers shall not arrest a person for a misdemeanor between the hours of 10:00 p.m. of any day and 6:00 a.m. of the next day unless (Pen. Code § 840):

- (a) The arrest is made without a warrant pursuant to Penal Code § 836 which includes:
 1. A misdemeanor committed in the presence of the officer.

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2. Misdemeanor domestic violence offenses (See the Domestic Violence Policy).
 - (b) The arrest is made in a public place.
 - (c) The arrest is made with the person in custody pursuant to another lawful arrest.
 - (d) The arrest is made pursuant to a warrant which, for good cause shown, directs that it may be served at any time of the day or night.

102.3.6 OREGON AUTHORITY

Hospital Police Officers who enter the state of Oregon in order to provide or attempt to provide law enforcement assistance have Oregon peace officer authority within 50 miles from the California-Oregon border (ORS 133.405). Such authority shall only apply when officers are acting:

- (a) In response to a request for law enforcement assistance initiated by an Oregon sheriff, constable, marshal, municipal police officer or member of the Oregon State Police.
- (b) In response to a reasonable belief that emergency law enforcement assistance is necessary to preserve life, and circumstances make it impractical for Oregon law enforcement officials to formally request assistance.
- (c) For the purpose of assisting Oregon law enforcement officials with emergency assistance in response to criminal activity, traffic accidents, emergency incidents or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

DSH officers have no authority to enforce Oregon traffic or motor vehicle laws.

Whenever practicable, officers should seek permission from a OPS supervisor before entering Oregon to provide law enforcement services. As soon as practicable, officers exercising law enforcement authority in Oregon shall submit any appropriate written reports concerning the incident to the Oregon agency having primary jurisdiction over the area in which the incident occurred.

102.4 INTERSTATE PEACE OFFICER POWERS

Peace officer powers may be extended to other states:

- (a) As applicable under interstate compacts, memorandums of understanding or mutual aid agreements in compliance with the laws of each state.
- (b) When an officer enters an adjoining state in close or fresh pursuit of a person believed to have committed a felony (ARS § 13-3832; NRS 171.158; ORS 133.430).

The person arrested out of state must be taken without unnecessary delay before a magistrate of the county in which the arrest was made (ARS § 13-3833; NRS 171.158; ORS 133.440).

102.5 CONSTITUTIONAL REQUIREMENTS

All employees shall observe and comply with every person's clearly established rights under the United States and California Constitutions.