



HELPING TO ARREST, CONVICT, AND PUNISH CRIMINALS

SDPD Crime Prevention

December 26, 2016

CONTENTS

PREFACE

INTRODUCTION

TESTIFYING IN COURT

MAKING A CITIZEN'S ARRESTS

ACTIONS BY BUSINESSES AND PROPERTY OWNERS

PREFACE

The SDPD is committed to working in a problem-solving partnership with individuals, community groups, and businesses, as well as with schools, hospitals, religious groups, private organizations, and other government agencies to fight crime and improve the quality of life for the people of San Diego. Problem solving is a key component in the Department's philosophy of Neighborhood Policing, which focuses on community crime and disorder problems and recognizes the need for close relationships between the police and other elements in the City to identify and solve problems. However, Neighborhood Policing cannot succeed on the efforts of the police alone. All elements of the City have responsibilities to fulfill.

Twelve community responsibilities are defined in a paper entitled *Community Responsibilities for Making Neighborhood Policing Work in San Diego: A Resource Guide for Individuals, Community Groups, and Businesses*. They are:

- Voicing concerns about disorder problems
- Employing crime prevention measures
- Knowing about crime in your community
- Addressing and solving certain community problems
- Volunteering services to police and other community groups
- Commenting on SDPD personnel performance in Neighborhood Policing
- Reporting crimes and suspicious activities
- Reporting suspicious person, activities, vehicles, etc. to prevent terrorism
- Reporting other problems and incidents
- Helping to arrest, convict, and punish criminals
- Getting help with personal and family problems
- Exercising parental authority

The first six are discussed in that paper. The last six, including this one, are discussed in separate papers. They are published as part of the SDPD's continuing efforts to promote Neighborhood Policing. They provide information to help individuals, community groups, businesses, property owners, and others fulfill their responsibilities. All can be opened on the Community Resources and Responsibilities page of the SDPD website at www.sandiego.gov/police/services/prevention/community.

INTRODUCTION

Both individuals and businesses have important responsibilities in helping to arrest, convict, and punish criminals. Individuals who are crime victims or witnesses can testify in court and make citizen's arrests. Businesses and property owners can help in several ways, as discussed below.

TESTIFYING IN COURT

Individuals who are crime victims or witnesses have a civic duty to testify in court to help convict and punish criminals. This is an essential element in our criminal justice system. Criminals cannot be prosecuted if community members fail to fulfill this responsibility. Testifying in court also gives victims and witnesses a sense of empowerment and a degree of personal satisfaction from helping to punish the person who committed the crime. However, as in fulfilling any responsibility, it involves some personal inconvenience.

To appear in court you will have to travel to the court and may have to wait before being called to testify. In some cases it might be necessary to make more than one trip for an appearance because court proceedings are often subject to delays and disruptions that cannot be predicted in advance. Some compensation is available however. You will be paid a witness fee that should cover transportation and parking expenses, and you will get an allowance for meals you eat while waiting to testify. Other help can be requested in special situations, e.g., for childcare or transportation of a disabled person. Although retaliation is not a problem in the vast majority of cases, personal protection can be requested if a risk of retaliation exists. Finally, victims can get assistance in recovering their financial losses.

The County DA's Victim Assistance Program offers comprehensive services to victims and witnesses of all types of crimes. Services are provided from the moment the crime occurs for as long as assistance is needed; there is no cutoff for assistance by the program. The Program was created by the passage of Sec. 13835 *et seq* of the California State Penal Code, which mandates local comprehensive centers for victim and witness assistance throughout California. Its services are described online at www.sdcdca.org/helping/victims/victim-services.html. If you have been a victim of a crime and need assistance, you can call **619-531-4041**. A Victim Advocate will speak with you and determine how we can assist you. Program services are provided free of charge, and there is no legal citizenship requirement to receive assistance.

After the criminal is convicted, a sentencing hearing is conducted to determine the punishment. Victims, members of their family, and other community members involved in the case should appear before the judge to make suggestions for appropriate punishment and show support for the victim.

MAKING A CITIZEN'S ARREST

A citizen's arrest occurs when a private person or a police officer acting on behalf of a private person takes a person into custody in a lawful manner. In the case of a misdemeanor -- a lesser crime than a felony that is generally punishable by imprisonment in the county jail not exceeding six months or by a fine not exceeding \$1,000 or both -- the private person involved must see or hear the crime committed, sign the arrest form, and agree to testify in court before the officer will take the person into custody. If not for citizen's arrest, some persons would not be arrested for committing misdemeanors. This is because a police officer can arrest a person for a misdemeanor only if the crime is committed or attempted in his or her presence. And even then in some situations, e.g., ones involving trespasses, the private person whose rights are violated must sign the arrest form and agree to testify in court before the officer will make an arrest. An exception to these rules exists when a minor is involved; then an officer can make an arrest based on probable cause, e.g., a description provided by the victim.

A private person who sees a crime in progress or about to happen that involves serious personal injury, property damage, or property loss, i.e., an emergency, should call **911** immediately. In other cases, i.e., non-emergencies, the crime should be reported by calling the SDPD at **(619) 531-2000** or **(858) 484-3154**. The officer who responds will know whether a citizen's arrest is necessary before taking the suspect into custody.

A private person or another person acting on his/her behalf can also detain a person seen committing a crime and hold that person until a police officer arrives. This is often done with shoplifters. Reasonable force can be used to make the arrest, prevent escape, or overcome resistance. However, a private person should never get involved in such an

arrest if their safety might be at risk. It is often better to get good descriptions of the persons and vehicles involved, call **911** immediately, and offer your assistance in identifying and prosecuting the suspects. For example, it is strongly advised that citizens not attempt to arrest graffiti vandals because of the possibility that such criminals might be armed.

In the case of a misdemeanor reckless driving or hit and run in which a private person witnesses the incident and provides the police with a description of the vehicle, a citizen's arrest could occur if the police locate and stop the vehicle in a timely manner and the witness identifies the driver, signs an arrest form, and agrees to testify in court. If the police are unable to locate the vehicle and driver in a timely manner, the misdemeanor becomes "stale" and a different procedure must be followed. The witness would have to identify the driver in a photo lineup and agree to testify in court before the case is sent to the City Attorney for prosecution. (If there are injuries involved, a hit and run becomes a felony, and a police officer can make the arrest on the basis of information provided by the witness.)

ACTIONS BY BUSINESSES AND PROPERTY OWNERS

One way they can help to arrest and convict criminals is to authorize the SDPD to act as their agent and enter their property for purposes of enforcing laws against any person(s) found on the property without their consent or lawful purpose. To do this they should talk to the CRO in the SDPD Division in their area about filing a Letter of Agency. The form for this Letter must be filled out on the SDPD website in the following steps and filed by clicking on Email Form on the bottom left. The first step can be skipped if they know what SDPD Division covers their property.

1. Go to **www.sandiego.gov/police/pdf/2013policecitywidemap.pdf** to find out what SDPD Division covers the neighborhood in which your property is located.
2. Go to the Forms page on the SDPD website at **www.sandiego.gov/police/forms/forms** and click on Trespass Authorization/Letter of Agency Form.
3. Click RESET FORM to get the start and expiration dates. The Letter must be renewed every 12 months.
4. Use the drop down menu to enter the Police Division.
5. Fill in the blue blanks on the form.

Also, the property should be posted with NO TRESPASSING signs stating that a Letter of Agency has been filed with the SDPD and giving the address of the property, the name and phone number of the property owner or manager, and the non-emergency SDPD phone number to report suspicious activities. That number is **(619) 531-2000** or **(858) 484-3154**. The signs should be at least 18 by 24 inches in size, have a font visible from the nearest public street, not be accessible to vandals, and be posted on the entrances and spaced evenly on the boundaries of the property. A sample sign is also available by clicking on View a Sample Sign on the Forms page of the SDPD website at **www.sandiego.gov/police/forms/forms**.

In addition to filing a Letter of Agency as described above, a property owner facing continuing crime problems on his or her property can submit a Citizen Request Form by going to the Forms page on the SDPD website at **www.sandiego.gov/police/forms/forms**, clicking on Citizen Request Form, filling out the Form online with as much information as possible about the problem, and then clicking on the Submit Request button at the bottom of the Form. You can use this Form to request additional patrol and/or to report criminal activity at a specific address. It will be sent to the responsible Division for review and response as appropriate.

Although it is not required, businesses should allow their employees time off work with pay when they are victims or witnesses and are called to testify in court.