

Law Enforcement Authority

100.1 PURPOSE AND SCOPE

The purpose of this policy is to affirm the authority of the members of the Fresno State Police Department to perform their functions based on established legal authority.

100.2 POLICY

It is the policy of the Fresno State Police Department to limit its members to only exercise the authority granted to them by law.

While this department 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.

100.3 PEACE OFFICER POWERS

The statutory authority for the existence of the CSU Police Departments and involved Peace Officers is defined in the California Education and Penal Codes. Sworn members of this department are authorized to exercise peace officer powers pursuant to applicable state law (Penal Code § 830.2(c) et seq.). Pursuant to California Penal Code § 830.2(c), a member of the California State University Police Department appointed pursuant to California Education Code § 89560 is a Peace Officer whose authority extends to any place in the State.

According to the California Education Code § 89560, the Trustees may appoint one or more persons to constitute a Police Department for the headquarters and for each university of the California State University. Persons employed and compensated as members of the University Police, when so appointed and duly sworn are Peace Officers, and may exercise their powers of authority at the headquarters or upon any university of the California State University, and in an area within one mile of the exterior boundaries of each such or properties owned, operated, controlled, or administered by the California State University, or by Trustees of the State on behalf of the California State University, and as provided in California Penal Code § 830.2(c). The jurisdiction of the CSU Police Department is concurrent with that of the Municipal Police Departments and/or County Sheriff's Department within whose jurisdiction the university is physically located.

The Board of Trustees of the California State University are authorized and empowered by California Education Code § 89560 to appoint Peace Officers. The Standing Orders of the Board of Trustees provides for the delegation of authority for governance of the California State University and Colleges system to the Chancellor, and for the governance of an individual university to each President. Standard law enforcement policies that must be adopted on all 23 campuses are referred to as "Systemwide" policies.

Chiefs of Police are specialized managers within their particular communities of higher education and, as such, have responsibilities to their specific programs as well as to the general university

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administration. They will provide resource and expertise to their Presidents/Designees concerning technical law enforcement activities.

Revisions to Systemwide policies must be approved by the Executive Vice Chancellor and Chief Financial Officer prior to adoption by the President. The Vice President for Administration, by Presidential delegation, is responsible for the development of all other general university-specific policies governing the duties and procedures of the University Police. The responsibility is carried out through the Chief of Police, whose duties include developing and implementing policies governing public safety functions on campus, investigating policy violations and issuing discipline, providing consulting services and assistance to the university community, and promoting programs and standards to improve public safety services.

100.3.1 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE FRESNO STATE POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Fresno State Police Department includes (Penal Code § 830.2(c); Penal 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.

100.3.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE FRESNO STATE POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Fresno State Police Department includes (Penal Code § 830.2(c); Penal 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.

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- (d) When authorized by a cross jurisdictional agreement with the jurisdiction in which the arrest is made.
- (e) In compliance with an arrest warrant.

On-duty arrests will not generally be made outside the jurisdiction of this department except in cases of hot or fresh pursuit, while following up on crimes committed within 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.

100.3.3 DELIVERY TO NEAREST MAGISTRATE

When an officer makes an arrest pursuant to a warrant with bail set, and the warrant was issued in a county other than where the person was arrested, the officer shall inform the person in writing of the right to be taken before a magistrate in the county where the arrest occurred (Penal Code § 821; Penal Code § 822).

100.3.4 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 (Penal 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.
 - 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.

100.3.5 OREGON AUTHORITY

Sworn members of this department 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.

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Fresno State Police Department officers have no authority to enforce Oregon traffic or motor vehicle laws.

Whenever practicable, officers should seek permission from a department 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.

100.4 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).

100.5 CONSTITUTIONAL REQUIREMENTS

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