

# Law Enforcement Authority

## 100.1 PURPOSE AND SCOPE

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

## 100.2 PEACE OFFICER POWERS

Sworn members of this [department/office] are authorized to exercise peace officer powers pursuant to applicable state law (Penal Code § 830.1 et seq.).

### 100.2.1 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).

### 100.2.2 ARREST AUTHORITY OUTSIDE THE JURISDICTION OF THE ALAMEDA POLICE DEPARTMENT

The arrest authority outside the jurisdiction of the Alameda Police Department includes (Penal Code § 830.1; 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.
- (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/office] except in cases of hot or fresh pursuit, while following up on crimes committed with the City or while assisting another agency.

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

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### 100.2.3 ARREST AUTHORITY INSIDE THE JURISDICTION OF THE ALAMEDA POLICE DEPARTMENT

The arrest authority within the jurisdiction of the Alameda Police Department includes (Penal Code § 830.1; 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.

### 100.2.4 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.

### 100.2.5 OREGON AUTHORITY

Sworn members of this [department/office] 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

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or other similar public safety situations, regardless of whether an Oregon law enforcement official is present at the scene of the incident.

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

Whenever practicable, officers should seek permission from a [department/office] 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.

#### **100.3 AUTHORITY OF ORGANIZATION**

**Authority of Organization** - The Alameda Police Department is organized under authority of Article II, Section 2-3 of the City Charter and reads:

"The City Council shall establish by ordinance offices for the administration of Departments of the City and the incumbents thereof shall be appointed by and hold office at the pleasure of the City Manager. Once established those offices may be changed, deleted or new ones added by vote of a majority of the Council."

##### **100.3.1 AUTHORITY OF SWORN PERSONNEL**

Alameda Police Officers are sworn peace officers per Section 830.1 of the California Penal Code, which establishes "any police officer of a city" as a peace officer. The authority of any such peace officer extends to any place in the State of California:

- "As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs him/her; or
- Where he/she has the prior consent of the Chief of Police, or person authorized by him/her to give such consent, if the place is within a city or of the sheriff, or person authorized by him/her to give such consent, if the place is within a county; or
- As to any public offense committed or which there is probable cause to believe has been committed in his/her presence, and with respect to which there is immediate danger to person or property or of the escape of the perpetrator of such offense".
- All current written directives in conflict with these policies are hereby replaced. All written directives not in conflict with these policies shall have the same authority as these policies.
- Written directives shall not be issued, amended, or canceled without approval of the Chief of Police, or, in his/her absence, such person designated as Acting Chief of Police.

#### **100.4 POLICY**

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

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While this [department/office] 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/office] does not tolerate the abuse of law enforcement authority.

### **100.5 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).

### **100.6 CONSTITUTIONAL REQUIREMENTS**

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