

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

EXPRESSIVE ACTIVITY/SOLICITATION  
SUBJECT

DATE: March 10, 2009

NO: L-3

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: **Expressive activity/Solicitation at Retail Establishments**

I. LAW

All sworn personnel of the Stockton Police Department are to become familiar with Section 602.1 and 847 of the Penal Code.

II. PROCEDURE

- A. Expressive Activity/Solicitation on the business premises ( other than those involving a labor union), including but not limited to activities such as: gathering signatures for a petition, handing out leaflets, and requesting and collecting donations.
1. It is the responsibility of the property owner to either:
    - a. Seek an injunction to prevent such activity; or
    - b. Perform a private citizen's arrest for trespass in accordance with the procedure laid out under Penal Code §847 if the owner believes the parties engaging in expressive activity/solicitation are doing so unlawfully.
  2. If a business owner calls for the Stockton Police Department to remove parties engaging in such activities and provides proof of a valid order enjoining such activity from the premises, the Stockton Police Department may ask the parties to remove themselves from the property voluntarily. If the parties refuse to leave voluntarily, the Stockton Police Department may arrest and remove them for trespassing.
  3. If the business owner calls the Stockton Police Department and does not have a valid order enjoining such activity but wishes to effectuate a citizen's arrest in accordance with the procedure laid out under Penal Code §847, the Stockton Police Department may cite and release the party if the Stockton Police Department has a reasonable belief that the circumstances constitute a valid arrest.
  4. The Stockton Police Department must indicate in the Arrest Report that the citation is the result of a citizen's arrest and include the facts as related by the business owner.
  5. When facilitating a citizen's arrest, the Stockton Police Department should never arrest and remove such persons for engaging in such activity unless:
    - a) The activities pose a danger to the public; or
    - b) Violence erupts; or
    - c) The activity interferes with business operations by obstructing ingress or egress to and from the business.
  6. **Labor Union Rule:** When expressive activity involves a labor union, the restrictions under the First Amendment do not apply regardless of the type of property involved, because they are governed by various federal and state laws with regard to union activity.

The Stockton Police Department may not interfere with union activity or apply the normal trespass or intentional interference with business establishment violations under the Penal Code, unless:

- a) The activities pose a danger to the public; or
- b) Violence erupts; or
- c) The activity interferes with business operations by obstructing ingress or egress to and from the business.