

CITY OF BARSTOW

CALIFORNIA

POLICIES and PROCEDURES MANUAL: POLICE

Subject: CERTIFICATE OF DETENTION

INTRODUCTION

The intent of this policy is to establish uniform procedures regarding persons taken into custody, then released without formal charges being filed.

PENAL CODE SECTION 849

- (a) When an arrest is made without a warrant by a peace officer or a private citizen, the person arrested, if not otherwise released, shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the county in which the offense is triable, and a complaint stating the charge against the person shall be laid before the magistrate.
- (b) Any peace officer may release from custody, instead of taking such person before a magistrate, any person arrested without a warrant whenever:
- (1) He or she is satisfied that there are insufficient grounds for making a criminal complaint against the person arrested.
 - (2) The person was arrested for intoxication only, and no further proceedings are desirable.
 - (3) The person was arrested only for being under the influence of a narcotic, drug, or restricted dangerous drug, and such person is delivered to a facility or hospital for treatment, and no further proceedings are desirable.
- (c) Any record of arrest of a person released pursuant to paragraphs (1) and (3) of subdivision (b) shall include a record of release. Therefore, such arrest shall not be deemed an arrest, but a detention only.

PROCEDURE

When a person is taken into custody, and a subsequent investigation indicates that no criminal charges are warranted, the subject will be released from custody, and the action will be deemed a "detention only". The individual shall be advised of all facts resulting in the detention, and once the Certificate of Detention form is completed, the person shall be released as rapidly as possible. In all cases a signed copy of the Certificate of Detention shall be given to the involved party. Since this individual is no longer a suspect, a common sense degree of courtesy shall be extended, i.e., transportation back to the subject's vehicle or original point of contact.

Reference:

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Revision No. 1

Page 1 of 2

Section 703

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REPORTING PROCEDURE

The involved officer shall obtain a crime report number from the dispatcher, and complete a CR1 form, indicating in detail the reason for the detention and subsequent release. This shall be attached to the Certificate of Detention and submitted to the watch commander for processing. Note: officers are not required to obtain a booking number or complete a booking form.

NOTIFICATION OF SUPERVISOR

In all cases patrol officers shall notify the watch commander prior to making a decision to release an individual without charges. Detectives shall contact the Detective Sergeant prior to any releases per 849 PC. If the detective supervisor is unavailable, detectives shall then contact the on-duty watch commander prior to releasing an individual per a Certificate of Detention.

NEWS MEDIA

Since a "detention" does not legally constitute an arrest, the press has no right to information concerning the individual's name, or details of the incident leading up to the detention. Any logs available to the press shall have the individual's name deleted. On those occasions when a press release is completed, the person detained shall not be identified.

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Page 2 of 2

Section 703