Trespass and Illegal Lodging/Disorderly Conduct Noticing Procedure

402.1 PURPOSE

This procedure provides direction on the proper manner for admonishment and documentation whenever a subject is issued a trespass admonition per 602 of the California Penal Code. Our Department will have two primary forms for this purpose, titled **Notice of Trespass** and **Disorderly Conduct/Illegal Lodging**.

402.2 NOTICE OF TRESPASS

Before and during the issuance of the Notice of Trespass form, officers should consider the following:

The owner or agent must be present.

- They are required to provide their information for the form as well as sign the form
- The form describes who qualifies as an owner/agent.

  On-site security can act as an agent of the property especially if issuing a notice outside of normal business hours.

The form is triplicate - all parties should receive a copy for their records.

- White – Records
- Yellow – Owner/Agent
- Pink - Trespasser

When a Notice of Trespass form is issued:

A report is not required to document the contact and issuance of the Notice of Trespass form

If the issuance of the Notice is the only action taken the notice shall be submitted to our Records Division with the incident number indicated

- Records will scan the form and attach it to the RIMS person file for the trespasser which will be easily accessible in case of future need.

Officers should enter notes on the text of the incident in RIMS.

Officers will request that Dispatch change call type to "Trespass"

Dispatch will ensure that the subject admonished for trespassing is entered in the RIMs "Trespassers" log (located under the RIMS Offenders Tab) with all appropriate information

- Officers should later verify that all involved parties are appropriately attached to the incident, the trespasser is entered in the RIMS “Trespassers” log, and all information is current and correct.

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If an officer chooses to enter the trespassing subject into the Trespassers log, they shall advise Dispatch that they have already completed this action.

A report is required when enforcement action is taken, i.e. arrest and or citation

- It is the responsibility of the officer to make sure that probable cause exists for the arrest and that information listed in the RIMS “Offenders” log is current.
- A Citizen’s Arrest (CA) form is no longer needed after the issuance of the Notice of Trespass form
    - If the owner or agent is requesting that the subject be arrested in addition to the Notice of Trespass, a CA form is required.
- Once the form has been issued, the trespasser must leave the premise. If they refuse and remain on the property they are arrestable under 602(k) PC
    - Sections for both the City Ordinance and Penal Code can be found on the form

        A CA is not required after the issuance of the Notice of Trespass form
- Duration of Trespass Notice
    - For public property or private property open to the public, the admonition is valid for 30 days (per 602(o) PC).
    - For private property not open to the public, the admonition is valid for one year (per 602(o) PC).
- The owner/agent should be advised to keep a copy of the form on premise.
- If the situation is ongoing with the same subject, officers are encouraged to educate the property owner, agent, etc of the restraining order process
- If the owner or agent refuses to proceed with the issuance of a Notice of Trespass, officers should document this in RIMS in the incident notes.
    - **Example:** Advised of 602 form, Owner or Agent Refused or Advised of 602 form, Resident Refused
    - This shows that the Owner/Agent was made aware of their rights and chose certain action(s).

402.3 DISORDERLY CONDUCT/ILLEGAL LODGING

This form is for encampments and 'squatting' on private property.

Officers should consider the following when handling incidents involving disorderly conduct and/or illegal lodging on private property:

Our Department is not responsible for the removal of items left behind by the person(s) being issued the notice

Owners/Agents do not have to give notice before removing encampments from private property

The "3 Day rule" does not apply as it is private property

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If squatters are previous tenants, officers should ensure that the legal eviction process has been followed prior to issuing an illegal lodging notice.

If officers have questions on the proper handling of such issues, they are encouraged to consult with our Department's Downtown Unit (DTU) personnel.

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