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Citizen's Arrest and Private-Person Arrest Under Penal Code 837

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Penal Code 837 lets a private person, including a security guard, arrest someone for a public offense committed in their presence or for a felony that actually occurred, but the guard bears the risk if the underlying facts turn out to be wrong. Courts generally hold private arrests to a strict standard because the arresting person has no badge and no immunity net like a peace officer does.

What the statute actually allows

Penal Code section 837 authorizes a private person to arrest someone for a public offense committed or attempted in the arresting person's presence, or when the person arrested has in fact committed a felony, even if not in the arrester's presence.

The key word is 'in fact.' Unlike a peace officer, who can often rely on probable cause even if later proven wrong, a private citizen who arrests for a felony not committed in their presence is generally exposed to liability if it turns out no felony actually occurred.

Security guards act as private persons for arrest purposes unless they are separately deputized or specially commissioned, so this distinction matters directly to how a post is run.

How courts have approached private-person arrests

A plain-English look at the doctrines that recur in this area, not a substitute for reading the cases.

Doctrine or issue	What courts have looked at	What it means for a working guard
Presence requirement	Whether the offense happened within the arresting person's own observation	Only arrest for a public offense you actually witnessed, not one described secondhand
Felony-in-fact rule	Whether a felony truly occurred, not just whether it was suspected	A mistaken felony arrest carries real exposure even if the belief was sincere
Reasonable manner and force	Whether the method of detaining someone was proportionate	Excess force during a citizen's arrest can turn a lawful stop into a liability
Prompt turnover to police	Whether the arrested person was handed to law enforcement without unreasonable delay	Call police immediately and avoid extended, informal detentions

Practical guardrails for a security post

- Document exactly what was personally observed, in the guard's own words, before consulting anyone else
- Call 911 or dispatch immediately rather than holding a person longer than necessary to transfer custody
- Avoid guessing at felony versus misdemeanor distinctions in the field; when in doubt, observe and report rather than physically arrest
- Use only the force necessary to prevent escape or protect safety, and stop as soon as that need ends

Research and education only

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Quick answers

Can a security guard make an arrest in California?

Yes, as a private person under Penal Code 837, but only within the narrow limits the statute sets, not with the same protections a peace officer has.

What happens if the felony didn't actually happen?

A private person who arrests for a felony that turns out not to have occurred can face civil liability, since the 'felony in fact' requirement is unforgiving.

Should a guard physically detain a shoplifting suspect?

Detentions for suspected theft are usually analyzed under the separate shopkeeper's privilege statute, which has its own reasonableness limits.

How quickly must an arrested person be turned over to police?

Without unreasonable delay; extended informal holding by private security increases legal risk.

Primary sources — read the official text

Penal Code Section 837	California Legislative Information	https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=837
Penal Code Section 834	California Legislative Information	https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN&sectionNum=834
BSIS Security Guard Requirements	Bureau of Security and Investigative Services	https://www.bsis.ca.gov/forms_pubs/guard_card.shtml

California Courts Self-Help	Judicial Council of California	https://www.courts.ca.gov/selfhelp.htm
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