

A Security Officer may arrest under specific circumstances governed by the following laws and regulations Included in this report will be the laws which govern a Security Officers ability to arrest. In addition, the offenses of which a Security Officer may arrest will be included.

First and foremost is the Code of Criminal Procedure.

Code of Criminal Procedure (CCP):

14.01 ~ Offenses Within View

(a) A peace officer or any other person, may, without a warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony or as an offense against the public peace.

(b) A peace officer may arrest an offender without a warrant for any offense committed in his presence or within his view.

What this means is, the Security Officer does have the right to arrest with caveats. The first caveat is the Security Officer must have seen the crime occur and second, the crime must be a felony or a violation of Penal Code Chapter 42.01 which will be discussed later. The felonies a Security Officer has a right to arrest are listed below in no particular order.

- Homicide - Penal Code Chapter 19
- Robbery / Aggravated Robbery - P.C. Ch. 29
- Burglary - Penal Code Ch. 30
- Theft - Penal Code Ch. 31 ( >\$2500)
- Kidnapping / Aggravated Kidnapping - P.C Ch. 20
- Arson - Penal Code Ch. 28
- Sexual Assault / Aggravated Sexual Assault Penal Code Chapters 21 & 22
- Aggravated Assault Penal Code Chapter 22

Remember, the Security Officer must have seen these crimes committed in order for the arrest to be legal; both criminal & civil.

Code of Criminal Procedure (CCP)

18.16 ~ Preventing Consequences of Theft (Shoplifting)

Any person has a right to prevent the consequences of theft by seizing any personal property that has been stolen and bringing it, with the person suspected of committing the theft, if that person can be taken, before a magistrate for examination, or delivering the property and the person suspected of committing the theft to a peace officer for that purpose. To justify a seizure under this article, there must be reasonable ground to believe the property is stolen, and the seizure must be openly made and the proceedings had without delay.

What is an arrest? This is easily defined in Black's Law Dictionary (pg. 135) as:

1. A seizure or forcible restraint, esp. by legal authority.
2. The taking or keeping of a person in custody by legal authority, esp. in response to a criminal charge; specify., the apprehension of someone for the purpose of securing the administration of the law, esp. of bringing that person before a court.

Citizen's arrest is defined as:

(yr. 1941) An arrest of a private person by another private person on grounds that (1) a public offense was committed in the arrestor's presence, or (2) the arrestor has reasonable cause to believe that the arrestee has committed a felony.

In law, we continue to see the word "reasonable". What is reasonable to one person may or may not be reasonable to another person.

reasonable: fair, proper or moderate under the circumstances; sensible.

"It is extremely difficult to state what lawyers mean when they speak of 'reasonableness.' In part the expression refers to ordinary ideas of natural law or natural justice, in part to logical thought, working upon the basis of the rules of law." John Salmond, Jurisprudence 183 n.(u) (Glanville L. Williams ed., 10th ed. 1947)

(Of a person) having the faculty of reason <a reasonable person would have looked both ways before crossing the street>

Reasonable person. (1856) A hypothetical person used as a legal standard, esp. to determine whether someone acted with negligence; specify., a person who exercises the degree of attention, knowledge, intelligence and judgement that society requires of its members for the protection of their own and of others' interests. The reasonable person acts sensibly, does things without serious delay and takes proper but not excessive precautions.

"The reasonable man connotes a person whose notions and standards of behavior and responsibility correspond with those generally obtained among ordinary people in our society at the present time, who seldom allows his emotions to overbear his reason and whose habits are moderate and whose disposition is equable. He is not necessarily the same as the average man - a term which implies an amalgamation of counter-balancing extremes." R.F.V. Heuston, Salmond on the Law of Torts 56 (17th ed. 1977)

**Reasonably suspect.** (17c): to consider (something) to be probable under circumstances in which a reasonable person would be led to that conclusion. **2** To consider (someone) as having probably committed wrongdoing under circumstances in which a reasonable person would be led to that conclusion.

The next topic discussed in CCP 14.01 is "Offenses Against the Public Peace". Those offenses are specifically spelled out in Chapter 42.01 of the Texas Penal Code.

Texas Penal Code (TPC) Chapter 42.01 ~ Disorderly Conduct

(a) A person commits an offense if he intentionally or knowingly:

- (1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;
- (2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;
- (3) creates, by chemical means, a noxious and unreasonable odor in a public place;
- (4) abuses or threatens a person in a public place in an obviously offensive manner;

- (5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section [250.001](#), Local Government Code, or in or near a private residence that he has no right to occupy;
- (6) fights with another in a public place;
- (7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section [250.001](#), Local Government Code;
- (8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;
- (9) discharges a firearm on or across a public road;
- (10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or
- (11) for a lewd or unlawful purpose: (A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;
- (B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or
- (C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.
- (a-1) For purposes of Subsection (a), the term "public place" includes a public school campus or the school grounds on which a public school is located.
- (b) It is a defense to prosecution under Subsection (a)(4) that the actor had significant provocation for his abusive or threatening conduct.
- (c) For purposes of this section:
- (1) an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and
- (2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.
- (d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(7) or (a)(8), in which event it is a Class B misdemeanor.
- (e) It is a defense to prosecution for an offense under Subsection (a) (7) or (9) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section [822.101](#), Health and Safety Code.
- (e-1) Subsection (a)(9) does not apply to a person who, at the time the person engaged in conduct prohibited under that subdivision, was an employee of the Parks and Wildlife Department acting within the scope of the employee's authority under Section [12.013\(c\)](#), Parks and Wildlife Code.
- (f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student younger than 12 years of age, and the prohibited conduct occurred at a public school campus during regular school hours.

(g) Noise arising from space flight activities, as defined by Section [100A.001](#), Civil Practice and Remedies Code, if lawfully conducted, does not constitute "unreasonable noise" for purposes of this section.

As any reasonable person can conclude, TPC 42.01 is long and can be confusing in certain or even most sections. You, the Security Officer, must be careful in not violating an individuals rights under the U.S. Constitution and Bill of Rights. ALWAYS, when in doubt contact your supervisor or law enforcement.

Civil rights. (Usu.pl.) (17c) 1. Any of the individual rights of personal liberty guaranteed by the Bill of Rights and by the 13th, 14th, 15th and 19th Amendments, as well as by legislation such as the Voting Right Act \*. Civil rights include esp. the right to vote, the right of due process, and the right of equal protection under the law. 2. Civil Liberty "At common law a person convicted of a felony became an outlaw. He lost all of his civil rights and all of his property became forfeited. This harsh rule no longer prevails. Under modern jurisprudence the civil rights of a person convicted of a crime, be it a felony or misdemeanor, are in nowise affected or diminished except insofar as express statutory provisions so prescribe." Alexander Holtzoff, "Civil Rights of Criminals," in Encyclopedia of Criminology 55. (Vernon C. Branham & Samuel B. Kutash Eds., 1949)

Now we must discuss TPC 30.05 Criminal Trespass. The C.T. law is vast, almost as looking into an abyss. However; we shall endeavor to persevere.

TPC 30.05 ~ Criminal Trespass

(a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, a general residential operation operating as a residential treatment center, or an aircraft or other vehicle, without effective consent and the person:

(1) had notice that the entry was forbidden; or

(2) received notice to depart but failed to do so.

(b) For purposes of this section:

(1) "Entry" means the intrusion of the entire body.

(2) "Notice" means:

(A) oral or written communication by the owner or someone with apparent authority to act for the owner;

(B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;

(C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;

(D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:

(i) vertical lines of not less than eight inches in length and not less than one inch in width;

(ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and

(iii) placed at locations that are readily visible to any person approaching the property and no more than:

- (a) 100 feet apart on forest land; or
- (b) 1,000 feet apart on land other than forest land; or
- (E) the visible presence on the property of a crop grown for human consumption that is under cultivation, in the process of being harvested, or marketable if harvested at the time of entry.
- (3) "Shelter center" has the meaning assigned by Section [51.002](#), Human Resources Code.
- (4) "Forest land" means land on which the trees are potentially valuable for timber products.
- (5) "Agricultural land" has the meaning assigned by Section [75.001](#), Civil Practice and Remedies Code.
- (6) "Superfund site" means a facility that:
  - (A) is on the National Priorities List established under Section 105 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9605); or
  - (B) is listed on the state registry established under Section [361.181](#), Health and Safety Code.
- (7) "Critical infrastructure facility" means one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders:
  - (A) a chemical manufacturing facility;
  - (B) a refinery;
  - (C) an electrical power generating facility, substation, switching station, electrical control center, or electrical transmission or distribution facility;
  - (D) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;
  - (E) a natural gas transmission compressor station;
  - (F) a liquid natural gas terminal or storage facility;
  - (G) a telecommunications central switching office;
  - (H) a port, railroad switching yard, trucking terminal, or other freight transportation facility;
  - (I) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas; or
  - (J) a transmission facility used by a federally licensed radio or television station.
- (8) "Protected freshwater area" has the meaning assigned by Section [90.001](#), Parks and Wildlife Code.
- (9) "Recognized state" means another state with which the attorney general of this state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:
  - (A) has firearm proficiency requirements for peace officers; and
  - (B) fully recognizes the right of peace officers commissioned in this state to carry weapons in the other state.
- (10) "Recreational vehicle park" has the meaning assigned by Section [13.087](#), Water Code.

(11) "Residential land" means real property improved by a dwelling and zoned for or otherwise authorized for single-family or multifamily use.

(12) "Institution of higher education" has the meaning assigned by Section [61.003](#), Education Code.

(13) "General residential operation" has the meaning assigned by Section [42.002](#), Human Resources Code.

(c) A person may provide notice that firearms are prohibited on the property by posting a sign at each entrance to the property that:

(1) includes language that is identical to or substantially similar to the following: "Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm";

(2) includes the language described by Subdivision (1) in both English and Spanish;

(3) appears in contrasting colors with block letters at least one inch in height; and

(4) is displayed in a conspicuous manner clearly visible to the public.

(d) Subject to Subsection (d-3), an offense under this section is:

(1) a Class B misdemeanor, except as provided by Subdivisions (2) and (3);

(2) a Class C misdemeanor, except as provided by Subdivision (3), if the offense is committed:

(A) on agricultural land and within 100 feet of the boundary of the land; or

(B) on residential land and within 100 feet of a protected freshwater area; and

(3) a Class A misdemeanor if:

(A) the offense is committed:

(i) in a habitation or a shelter center;

(ii) on a Superfund site; or

(iii) on or in a critical infrastructure facility;

(B) the offense is committed on or in property of an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:

(i) an offense under this section relating to entering or remaining on or in property of an institution of higher education; or

(ii) an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education;

(C) the person carries a deadly weapon during the commission of the offense; or

(D) the offense is committed on the property of or within a general residential operation operating as a residential treatment center. (d-1) For the purposes of Subsection (d)(3)(B), a person has previously been convicted of an offense described by that paragraph if the person was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication community supervision, regardless of whether the sentence for the offense was ever imposed or whether the sentence

was probated and the person was subsequently discharged from deferred adjudication community supervision.

(d-2) At the punishment stage of a trial in which the attorney representing the state seeks the increase in punishment provided by Subsection (d)(3)(B), the defendant may raise the issue as to whether, at the time of the instant offense or the previous offense, the defendant was engaging in speech or expressive conduct protected by the First Amendment to the United States Constitution or [Section 8](#), Article I, Texas Constitution. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment provided by Subsection (d)(3)(B) does not apply.

(d-3) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200 if the person enters the property, land, or building with a firearm or other weapon and the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other weapon was forbidden, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, land, or building with the firearm or other weapon, the actor:

(1) personally received from the owner of the property or another person with apparent authority to act for the owner notice that entry with a firearm or other weapon was forbidden, as given through:

(A) notice under Subsection (b)(2)(A), including oral or written communication; or (

B) if the actor is unable to reasonably understand the notice described by Paragraph (A), other personal notice that is reasonable under the circumstances; and

(2) subsequently failed to depart.

(e) It is a defense to prosecution under this section that the actor at the time of the offense was:

(1) a firefighter or emergency medical services personnel, as defined by Section [773.003](#), Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances;

(2) a person who was:

(A) an employee or agent of:

(i) an electric utility, as defined by Section [31.002](#), Utilities Code; (ii) a telecommunications provider, as defined by Section [51.002](#), Utilities Code; (iii) a video service provider or cable service provider, as defined by Section [66.002](#), Utilities Code; (iv) a gas utility, as defined by Section [101.003](#), Utilities Code, which for the purposes of this subsection includes a municipally owned utility as defined by that section; (v) a gas utility, as defined by Section [121.001](#), Utilities Code; (vi) a pipeline used for the transportation or sale of oil, gas, or related products; or (vii) an electric cooperative or municipally owned utility, as defined by Section [11.003](#), Utilities Code; and

(B) performing a duty within the scope of that employment or agency; or

(3) a person who was:

(A) employed by or acting as agent for an entity that had, or that the person reasonably believed had, effective consent or authorization provided by law to enter the property; and

(B) performing a duty within the scope of that employment or agency.

(f) It is a defense to prosecution under this section that:

(1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and

(2) the person was carrying:

(A) a license issued under [Subchapter H, Chapter 411](#), Government Code, to carry a handgun; and

(B) a handgun: (i) in a concealed manner; or (ii) in a holster. (f-1) It is a defense to prosecution under this section that:

(1) the basis on which entry on the property was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is:

(A) an owner of an apartment in a condominium regime governed by Chapter 81, Property Code; (B) an owner of a condominium unit governed by [Chapter 82](#), Property Code; (C) a tenant or guest of an owner described by Paragraph (A) or (B); or (D) a guest of a tenant of an owner described by Paragraph (A) or (B); (3) the actor: (A) carries or stores a firearm or firearm ammunition in the condominium apartment or unit owner's apartment or unit; (B) carries a firearm or firearm ammunition directly en route to or from the condominium apartment or unit owner's apartment or unit; (C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for residents or guests of the condominium property; or (D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for residents or guests of the condominium property; and (4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition. (f-2)

It is a defense to prosecution under this section that: (1) the basis on which entry on a leased premises governed by [Chapter 92](#), Property Code, was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is a tenant of the leased premises or the tenant's guest; (3) the actor: (A) carries or stores a firearm or firearm ammunition in the tenant's rental unit; (B) carries a firearm or firearm ammunition directly en route to or from the tenant's rental unit; (C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a

(f-3) It is a defense to prosecution under this section that: (1) the basis on which entry on a leased premises governed by [Chapter 94](#),

Property Code, was forbidden is that entry with a firearm or firearm ammunition was forbidden; (2) the actor is a tenant of a manufactured home lot or the tenant's guest; (3) the actor: (A) carries or stores a

firearm or firearm ammunition in the tenant's manufactured home; (B) carries a firearm or firearm ammunition directly en route to or from the tenant's manufactured home; (C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for tenants

or tenants' guests by the landlord of the leased premises; or (D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for tenants or tenants' guests by the

landlord of the leased premises; and (4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition. (f-4) It is a defense to prosecution under this section that: (1) the conduct

occurred on hotel property, and the basis on which entry on that property was forbidden is that entry with a firearm or firearm ammunition was forbidden; (2) the actor is a guest of a hotel, as defined by Section

[2155.101](#), Occupations Code; and (3) the actor: (A) carries or stores a firearm or firearm ammunition in the actor's hotel room; (B) carries a firearm or firearm ammunition directly en route to or from the hotel

or the actor's hotel room; (C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel

guests; or (D) carries or stores a firearm or firearm ammunition in the actor's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests. (g) It is a defense to prosecution

under this section that the actor entered a railroad switching yard and was at that time an employee or a



representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.). (h) At the punishment stage of a trial in which the attorney representing the state seeks the increase in punishment provided by Subsection (d)(3)(A)(iii), the defendant may raise the issue as to whether the defendant entered or remained on or in a critical infrastructure facility as part of a peaceful or lawful assembly, including an attempt to exercise rights guaranteed by state or federal labor laws. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment provided by Subsection (d)(3)(A)(iii) does not apply.

Text of subsection effective until January 01, 2025

(i) This section does not apply if: (1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun or other weapon was forbidden; and (2) the actor at the time of the offense was a peace officer, including a commissioned peace officer of a recognized state, or a special investigator under Article 2.122, Code of Criminal Procedure, regardless of whether the peace officer or special investigator was engaged in the actual discharge of an official duty while carrying the weapon.

Text of subsection effective on January 01, 2025

(i) This section does not apply if: (1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun or other weapon was forbidden; and (2) the actor at the time of the offense was a peace officer, including a commissioned peace officer of a recognized state, or a special investigator under Article 2A.002, Code of Criminal Procedure, regardless of whether the peace officer or special investigator was engaged in the actual discharge of an official duty while carrying the weapon.

(j) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1138, Sec. 4, eff. September 1, 2009.

In short. Security Officers do have the right to arrest but under specific conditions. Those conditions are CCP 14.01 ~ CCP 18.16 TPC 42.01 ~ TPC 30.05. These are not withstanding the aforementioned list of Felonies on pages 1-2.