

**California Department of Justice
DIVISION OF LAW ENFORCEMENT
John D. Marsh, Chief**



INFORMATION BULLETIN

Subject:

**Protecting Tenants Against Unlawful Lockouts
and Other "Self-Help Evictions"**

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TO: ALL CHIEFS OF POLICE AND CALIFORNIA SHERIFFS

Law enforcement officers are sometimes called to the scene of disputes between residential landlords and tenants because a landlord has changed the locks on a rental property or forced the tenant out through other means. These so-called "self-help evictions" are not merely civil matters – they violate California criminal and civil laws.

This bulletin provides legal guidance about steps law enforcement officers can take to prevent and respond to unlawful lockouts and self-help evictions.

Legal Basis for This Guidance

It has long been the law in California that a tenant can be removed from a rental property only after there has been a court judgment and a writ of possession has been issued. (Code of Civ. Proc. §§ 712.010, 715.010 et seq., 1159 et seq.; Civ. Code § 789.3; Penal Code § 418.) Even then, only the Sheriff or Marshal, or their deputies, may evict a tenant. No one else, including a police officer, property owner, property manager, or realtor, may remove a tenant from their rental unit or force a tenant to leave. This is not only a civil matter but also a criminal matter, so law enforcement should intervene to enforce the law and stop self-help evictions.

Penal Code § 418 makes it a misdemeanor to use, encourage, or assist another to use "any force or violence in entering upon or detaining any lands or other possessions of another." **Penal Code § 602.5** makes it a misdemeanor to enter or remain in a residence without the consent of "the person in lawful possession," meaning the tenant. **Civil Code § 789.3** prohibits a landlord from changing the locks, shutting off the water or utilities, moving a tenant's belongings into the yard or street, or removing exterior doors or windows, in order to force a tenant out. Landlords who do so are liable for a penalty of \$100 per day that the violation continues, plus the tenant's actual damages. As explained in Civil Code § 1940.2, landlords may also violate **Sections 484 and 518 of the Penal Code** when influencing a tenant to vacate. Illegal evictions may also violate local ordinances in your city or county.

It is important to note that landlords cannot force out a tenant even if the tenant owes rent, has received an eviction notice, or is breaching the lease. In all cases the landlord must use the court process to legally evict a tenant.

How to Respond

- Police officers should never help a landlord evict a tenant by force or threats. Only the Sheriff, Marshall, or their deputies may evict, and they may only do so with a court order.
- Do not ask the tenants to leave their home.
- Advise the landlord or other persons involved that it is a misdemeanor to force tenants out of a rental property. Instruct them to allow the victims back into the home.
- Advise the landlord to seek legal advice if they have an issue with the tenant or to lawfully evict the tenant.
- Write a report about the incident even if no arrest is made.

When There Is a Dispute About Who Lives in the Home

If there is a dispute about whether a victim of a lockout lives in the rental unit, it may be appropriate to ask the individual to demonstrate their connection to the property. Keep in mind that lawful tenants may not always have ready proof that they live in the unit. Verbal agreements are common, and many tenants do not have a written lease or rent receipts.

Victims should be allowed to show a range of documentation, such as an ID, mail, utility bill, vehicle registration, paystub, or other proof to show that they live in the rental unit. They may need access to the unit to get such documents. Alternatively, if the landlord refuses to admit that the individual lives there, neighbors may be able to verify who lives in the unit.

When the Owner Also Lives in the Home

In general, tenants who rent a room in a home, whether from a master tenant or the homeowner, are entitled to the same protections against self-help evictions. Like other tenants, they may only be evicted through the court process. The only exception is for a "lodger," which is a single person who lives in a home with the homeowner and no other tenants, where the homeowner has full access to and control of all areas of the dwelling. (Penal Code § 602.3; Civil Code § 1946.5.) To treat someone as a lodger, specific legal requirements must be met. Law enforcement officers should consult with their agency's legal counsel if this issue arises.

Victim Services

Victims of illegal lockouts may need additional support to understand their rights or respond to the court eviction process. Officers should refer tenants to legal aid organizations in the area, which can be found at www.LawHelpCA.org or at the self-help desk at your local courthouse.