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INSPECTORS



DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS



Public Safety Services

M. J. "MIKE" FOSTER, JR.
GOVERNOR

POLICY AND PROCEDURE

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To: All Inspection Division Personnel
From: Patricia C. Slaughter *pc*
Administrative Director, Inspections and Licensing Section
Date: January 29, 1998
Subj: Procedure for Initiating Criminal Action
(1) While in Assistance of Law Enforcement and
(2) Refusal to Comply with LRS 40: 1583 (Locking, bolting, or obstructing exits)

It is the general policy of the Office of the State Fire Marshal to establish and maintain a cordial working relationship with the public. Due to the nature of our duties, however, there are those situations which occur that require the initiation of criminal action due to the imminent threat to Life Safety. It is the intent of this Policy and Procedure to delineate the procedures by which criminal action may be initiated by members of the Inspection Division.

LRS 40: 1583 (Fire Marshal's Act) states:

No persons shall bolt, lock, obstruct, or block any exit or any passageway, or permit anyone else to do so, while the structure, watercraft, or movable is in use for public assemblage.

An inspector shall seek criminal action only in those cases which involve violation of LRS 40: 1583, and only under the following circumstances:

- (1) While in assistance of Law Enforcement (e.g., Bar Raids, etc.)
- (2) Refusal of an owner/tenant, etc. to forthwith comply with the provisions of LRS 40: 1583 by locking, bolting, obstructing or blocking exit(s) or exit passageways, or permitting others to do so.

The provisions of LRS 40:1583 may be applied to situations involving (1) the physical locking, blocking, etc. of exits, and (2) situations involving violation of established capacity limits, whereby the overcapacity impedes egress (useful in Bar Raid situations).

The following additional Code sections, extracted from the Fire Marshal's Act, also apply to this procedure as they address who may enforce these statutes, and penalty for violation:

LRS 40: 1591(B) states: The law enforcement officers of each political subdivision of the state shall enforce this Part and all other laws under the jurisdiction of the State Fire Marshal and other lawful orders of the State Fire Marshal.

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LRS 40: 1621 states: Whoever fails to comply with any order issued by the Fire Marshal or his authorized representative, under any provisions of Part III, of Chapter 7, of Title 40, R.S. 40:1569 excepted, shall be fined not more than five hundred dollars or imprisoned for not more than six months or both. Each day's violation of an order constitutes a separate offense and may be punished as such at the discretion of the court.

While in assistance of Law Enforcement --

In situations where the assistance of the Office of the State Fire Marshal is requested by Law Enforcement (as in cases of Bar Raids, etc.) it shall be the posture of the Office of the State Fire Marshal to allow the lead enforcement agency, whether it is State or local, to initiate criminal charges. The Inspector shall provide inspectional services, to include verification of capacity and full facility inspection. The following procedures shall be followed:

1. If upon inspection the Inspector determines that the previously established capacity has been exceeded, or that exits have been physically locked, blocked, bolted, etc., the Inspector shall advise the lead agency that a violation of the Criminal Code has occurred. To assist the lead agency in the initiation of criminal charges, the Inspector shall provide:
 - A. Copy of LRS 40: 1583
 - B. Copy of LRS 40: 1591(B)
 - C. Copy of LRS 40: 1621
2. The Inspector shall assist the lead agency in the presentation of the facts of the violation before the Judge, Magistrate, etc., if required.
3. If a subpoena is issued, the Inspector shall advise his immediate supervisor and make himself available for court appearance, as per the Policy and Procedure Manual of the Office of the State Fire Marshal, II-A-1-b-41(c), Reporting for Duty.

Refusal to comply with provisions of LRS 40: 1583

When during the course of inspection there is (1) a refusal to comply with an Inspectors order to forthwith correct deficiencies cited under LRS 40:1583, or (2) the violation is noted in a facility in which there is a documented history of citations or complaints reference to violation of LRS 40: 1583, the following procedure shall be followed:

1. Avoid confrontation and leave the immediate area.
2. If possible, relocate to an area from which telephone calls may be made and received.
3. Immediately contact the District Supervisor and relay all pertinent details, to include location, nature and seriousness of violation, past history (if known), owner/tenant information, etc. Await supervisory decision.
 - A. The District Supervisor shall contact the office of the Administrative Director in order to obtain a decision whether to pursue immediate action.

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- B. Supervisory response to the scene is advisable, and will be at the direction of the Office of the Administrative Director.
- 4. If the decision is made to pursue immediate action, the Inspector shall first contact local Law Enforcement for assistance. If local Law Enforcement is unavailable or is otherwise unable to provide the required assistance, State Police is to be contacted and assistance requested.
 - A. The Inspector is to take no action until meeting with law enforcement personnel.
 - B. Full details are to be relayed to the Law Enforcement officer, inclusive of the violation(s), and pertinent Criminal Code sections from the Official Manual of the Office of the State Fire Marshal (Fire Marshal's Act):
 - 1. LRS 40: 1583/1574/1575 (as applicable)
 - 2. LRS 40: 1591(B)
 - 3. LRS 40: 1621
- 5. With the assistance of Law Enforcement, return to the location and attempt to resolve the situation in an amicable fashion.
- 6. If the owner/tenant still refuses to comply, the law enforcement officer may immediately affect a misdemeanor arrest.
- 7. If an arrest is not immediately made, the Inspector is to respond to the nearest Magistrate, Judge, or other official whose duty is to issue warrants of arrest in the jurisdiction of offense, whereupon the Inspector shall relay the pertinent details of the case, to include the sections of the Criminal Code which have been violated.
- 8. The Inspector shall not accompany law enforcement on the service of the warrant.
- 9. The Inspector shall notify the District Supervisor at the earliest possible time as to the immediate resolution of the situation. In turn, the District Supervisor shall notify the Office of the Administrative Director of all actions taken.
- 10. The Inspector shall be available to testify at all required court hearings, as per the Policy and Procedure Manual of the Office of the State Fire Marshal, II-A-1-b-41(C), Reporting for Duty.
- 11. If Law Enforcement is unavailable for assistance, the Inspector, under the direction of the District Supervisor, is to proceed under Items 7,8,9, and 10.
 - A. It shall be the responsibility of the District Supervisor to follow-up with the affected jurisdiction as to service of the criminal warrant.
 - B. Upon service of the warrant, the office of the Administrative Director is to be informed as to court date, and any other information pertinent to the case.

It is understood that a Policy and Procedure statement cannot address all situations, as each case has unique facts and circumstances. In all cases however, the initiation of Criminal action is the last resort. It is therefore imperative that conscientious and determined efforts be made at all levels to resolve situations involving violation(s) of Lrs 40: 1583 prior to the initiation of such action.

Authorized by: W. J. Bella
State Fire Marshal

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