

SANTA ANA POLICE DEPARTMENT

DAVID VALENTIN · CHIEF OF POLICE

TRAINING BULLETIN

"Education promotes professional and responsive law enforcement"

Shopping and Laundry Carts

Purpose

The purpose of this Training Bulletin is to provide procedural guidelines for the enforcement of Santa Ana Municipal Code (SAMC) 33-215.

Introduction

The public's perception of the effectiveness of the Police Department is measured not only by its statistical impact on crime, but on its *perceived* impact. "**Quality of Life**" issues such as the presence of abandoned cars, illegal street vendors and graffiti can contribute to the public's perception that things are "*out of control*," when in fact crime trends may be heading downward.

One such "Quality of Life" issue is the presence of an abandoned shopping cart. Many residents consider the presence of such a cart an eyesore for the neighborhood. Additionally, some of these carts are used by illegal street vendors in order to peddle their wares, while others are filled with their personal belongings.

The theft of carts also creates a financial drain on the businesses themselves. Most stores are forced to contract with a cart retrieval service in order to recover the carts. The City indicates that perhaps as many as 100,000 or more abandoned shopping carts are being retrieved annually from streets and sidewalks. The City currently spends over \$80,000 per year to retrieve abandoned shopping carts. The City has declared lost, stolen, wrecked or abandoned shopping carts as a public nuisance.

I. SAMC 33-215 Requirements

According to the Santa Ana City Attorney's Office and Orange County Deputy District Attorney's Office, the enforcement action of this section requires that the shopping or laundry cart is properly marked with an affixed sign or owner name plate and it is clearly visible on the property in question. Furthermore, the Santa Ana City Attorney's Office has informed the Santa Ana Police Department that SAMC 33-215, is the preferred section to use in lieu of California Penal Code section 490.1(a) and/or Business and Professions Code section 22435.2 (b).

II. SAMC 33-215 Unauthorized Removal Prohibited.

It shall be unlawful for any person:

1. To remove a shopping cart from premises, either temporarily or permanently, which is properly marked in conformity with this article, without the written consent of the owner; or
2. To be in possession of a shopping cart that has been removed from premises, which is properly marked in conformity with this article, without the written consent of the owner; or
3. To detach the sign or deface the name or address marked on the sign, which is properly marked on a shopping cart in conformity with this article.

III. SAMC 33-213(a) Shopping Cart Identification Required

Enforcement action can only be taken when the shopping cart in question is properly marked. SAMC 33-213(a) requires that every shopping cart owned or provided by any owner must have a sign permanently affixed to the shopping cart that contains all of the following information:

1. Identity of owner, or owner's business establishment, or both;
2. The address of the owner of the business establishment for the shopping cart return and a phone number at which a person may contact the owner to retrieve the shopping cart; and,
3. Notification to the public that the removal of the shopping cart from the premises is a violation of state and local law.

IV. SAMC Definitions (from Chapter 33, Article IX, of the Santa Ana Municipal Code)

A. Shopping Cart

A basket which is mounted on wheels or a similar device generally used in a retail or commercial establishment by a customer for the purpose of transporting goods of any kind. The word "shopping cart" includes laundry carts, which are shopping carts used in a laundromat or retail dry-cleaning establishment by a customer or attendant for the purpose of transporting textile goods.

B. Abandoned Shopping Cart

Any shopping cart that has been removed, without written consent of the owner, from the owner's premises and is left unattended or discarded on either public or private property other than the premises of the business establishment which the shopping cart was removed. For purposes of this article, a shopping cart located on any public or private property other than the premises of the retail business establishment which such shopping cart was removed, shall be presumed abandoned, even if in the possession of any person unless such person in possession is either:

1. The owner, employee or agent of the owner
2. The owner, employee or agent of a shopping cart retrieval service hired to retrieve shopping carts from the city, or
3. Has permission or consent to be in possession of the shopping cart from the shopping cart's owner.

C. Premises

The entire area owned, occupied, and/or utilized by an owner which provides shopping carts for use by customers or other persons, including any parking lot or other property provided by or on behalf of the owners for customer parking or use.

V. Permission Requirement

Before an arrest can be made, it is necessary to determine if prior permission was obtained to remove the cart from the premises. In order to assist officers in this determination, the Civic Center Patrol Detail has established a responsible party list attached to this Training Bulletin. This list is representative of the businesses who are most affected in our city and have contacted the Santa Ana Police Department stating, "*The store does not give anyone permission to remove the cart(s) from the stores property.*"

VI. Enforcement Procedures

Officers who initiate enforcement action against a person who is in possession of a shopping cart or a laundry cart in apparent violation of this section shall proceed as follows:

1. Verify that the cart is properly marked.
2. Determine if the person has permission to possess the cart, reference the established list. Permission should be in the form of a written document presently possessed by the person. If there is any question as to whether permission was obtained, contact the establishment in question and obtain a statement.
3. If no permission was obtained the person is in violation.
4. Have the individual remove the contents of the cart, if any. Whenever possible, have another officer or a witness observe. List the name of this person in your report. The store should be listed as the "*Victim*" and the responsible party as the "*Mention.*"
5. Mirandize suspect and obtain a statement when possible.
6. Issue a citation for the appropriate section. In general, this will be SAMC 33-215(a) or SAMC 33-215(b), a misdemeanor.
7. Contact the owner of the cart or a cart retrieval service to remove the cart. Due to the size and weight of the carts, officers are prohibited from lifting them alone. If the cart must be booked into evidence, then a minimum of two persons shall lift the cart.
8. Photograph the cart when possible.

9. The report shall include the businesses responsible party's name stating, "*The store does not give anyone permission to remove the carts from the store property.*"
10. If the cart is booked into evidence, the property slip information will include the business name, as the cart's owner, address and phone number, and whether the cart may be released back to the store by evidence personnel.

NOTE: If the arrestee must be booked (due to an outstanding warrant, for example) it will be necessary to store his/her property for safekeeping with a prisoner property receipt form completed.

VII. Abandoned Carts

The Police Department will not routinely collect abandoned carts, which have no evidentiary value. The California Grocers Association has contracted with the California Shopping Cart Retrieval Corporation (CSCRC) to pick up abandoned carts in the Santa Ana area. Its objective is to retrieve any abandoned carts as quickly and efficiently as possible in order to reduce the blight that their appearance might cause.

There is also a **TOLL-FREE** number that can be called to report abandoned carts. The number is **1 (888) 233-2278**. Officers shall report the location of abandoned carts to dispatch in the same manner as they would report a malfunctioning traffic signal. Dispatch will then notify the Retrieval Corporation.

Officers responding to citizen complaints of abandoned carts shall ensure that they are collected. Any property found in the cart, shall be itemized and booked into evidence as found property.

Summary

Shopping carts that have been removed from the premises of a retail establishment and abandoned on public or private property create blight and lower the quality of life in the affected area. The theft of carts increases costs to Santa Ana businesses. Persons who illegally possess the carts should be prosecuted and the carts returned to their owners. By standardizing the enforcement of these laws, and following up with proper and complete documentation of the arrest, we will improve the quality of life for all.

Acknowledgment: This Training Bulletin was originally prepared by Sgt. Stephen Colon (09/95) and updated by Officer Eddie Mendoza 02/06.

Revised By: Officer P. Craft

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