

<b>DATE:</b>	DECEMBER 3, 2012
<b>NUMBER:</b>	Q.77
<b>SUBJECT:</b>	PERMISSIVE RELEASE OF PRE-ARRAIGNMENT MISDEMEANOR INMATES
<b>RELATED SECTIONS:</b>	

PURPOSE

To provide for the release of “pre-arraignment” misdemeanor inmates per Penal Code Sections 849(b)(2) and 853.6 (O.R.).

POLICY

To expedite the release of “pre-arraignment” misdemeanor inmates, Penal Code Sections 849(b)(2), and 853.6 shall be liberally construed.

PROCEDURE

In order to provide standards for releases of designated inmates, the following procedure will be instituted.

- I. Bookings for Penal Code 647 (f) disorderly conduct drunk in public, Health and Safety Code 11550(A) under the influence, California Vehicle Code 21200.5 Riding a bicycle under the influence, 665(B) HN – DUI Boat/Vessel.

When the arresting agency does not desire prosecution of an inmate arrested for Penal code 647(f) (Drunk in Public), the inmate may be released pursuant to Penal Code 849(b)(2). A release order (J-68) from will be used with no further proceedings. The inmate charged only with Penal Code 647(f) may be released at the discretion of the Watch Commander. However, inmates charged with Health and Safety Code 11550(A) under the influence, California Vehicle Code 21200.5 Riding a bicycle under the influence, 665(B) HN – DUI Boat/Vessel will be processed as book and release and will be given an O.R notice to appear (J-14) form pursuant to Penal Code 853.6.

- II. Other Misdemeanor Booking

An inmate charged with a misdemeanor shall not be released from custody on his/her promise to appear pursuant to PC 853.6 when:

- A. The safety of the inmate, or the safety of others, may be jeopardized by the release.
- B. The inmate is arrested for a warrant or there are holds or warrants against the inmate with total bail in excess of \$500.00.
- C. The inmate refuses to sign the O.R. (Notice to Appear) form.
- D. The arrestee refuses or is unable to provide booking/O.R. information due to mental or emotional problems or intoxication.

### III. General Provision

All inmates who are booked into a Sheriff's Detention Facility and subject to release per Section 853.6 PC will be handled as a Detention Facility release.

- A. All releases shall be approved by the Watch Commander.
- B. The authority to exercise the release may be executed at any time prior to the inmate's appearance before a magistrate.
- C. Any military person released pursuant to these sections may be released to the custody of the military police.
- D. Distribution of the Notice To Appear form is as follows:
  - 1. Original and one copy to Court Clerk.
  - 2. Inmate being released.
  - 3. Inmate's custody record.
  - 4. Military Police or personnel if applicable.
- E. Any inmate booked under authority of 40302(a) CVC (lack of satisfactory evidence of identification) may be released by the detention facility. The detention facility may detain the arrested person for a reasonable period of time (not to exceed two (2) hours) in order to verify the person's identification per Section 40307 CVC.

### IV. California Vehicle Code (CVC) Misdemeanor/Infraction Arrests

Any individual charged with 23152(a) CVC (Drunk Driving-Alcohol/Drugs) or 23152(b) CVC (.01 Alcohol) may be considered for release through the "Conditional Custody Program". In addition, individuals charged with 23152 (a) VC or 23152(b) VC and charged with 12500(A) VC or any vehicle Code INFRACTION in addition to driving while intoxicated will be considered for the program. Additional MISDEMEANOR charges such as 14601 VC would disqualify them for CCP. In order for an individual to qualify, the following criteria must be met.

As of December 31, 2009, the San Diego County Sheriff's Department suspended the Conditional Custody Program (CCP) until further notice. All individuals arrested under California Vehicle Code Sections 23152(a) and/or 23152(b) – driving under the influence of alcohol or drugs, will be required to post bail or await court arraignment proceedings prior to release from custody.

- V. The Detention Processing Technician (DPT) assigned to the final release position will be responsible for verifying the identity of the subject being released.
  - A. Check the wristband for proper name, D.O.B. (date of birth) and booking number.
  - B. Check the photo in JIMS with the inmate to be released to verify proper name, booking number, and D.O.B.

- C. The DPT should make sure, through observation and instruction, that the subject does not take jail property and/or clothes from the premises.
- D. The subject must sign the property receipt section for returned funds and property.