

DATE: MAY 27, 2022
NUMBER: M.46
SUBJECT: COMPASSIONATE RELEASE
RELATED SECTIONS:

PURPOSE

To establish guidelines for the compassionate release of incarcerated persons

POLICY

Incarcerated persons with significant and/or life-threatening medical conditions may be released from Sheriff's custody to a medical facility or residential care facility if they are deemed to no longer be a threat to public safety per Government Code Sections 26605.5 and 26605.6. All requests for compassionate release consideration will be routed to a Detention Services Bureau (DSB) Captain designated by DSB command.

PROCEDURE

I. REQUEST/REVIEW PROCESS

- A. To expedite the evaluation and approval process, an email chain will be started and used for all replies. It will include the following:
 - 1. Detention Operations Area 1, 2 and 3 commanders
 - 2. Sheriff's Chief Medical Officer (CMO)
 - 3. Sheriff's Medical Services Administrator (MSA)
 - 4. Inmate Processing Division (IPD) Manager and Assistant Manager
 - 5. Facility commander
 - 6. Detention Support Division Captain

- B. Medical Services Division (MSD)
 - 1. The CMO will consult with an examining or treating physician. The physician may not be a county employee or someone under a preexisting contract with the County, but the physician may be one who provides medical services for a contractor of the County. The CMO and the physician will evaluate whether the incarcerated person's condition is such that the incarcerated person is incapable of causing harm to others upon or after release from custody, and unlikely to recover to the point where they can become capable of causing harm. The CMO will reply to the email with the following:
 - a. The physician's diagnosis of the incarcerated person's condition.
 - b. The physician's prognosis for the incarcerated person's recovery.

- c. The CMO's summary and concurrence with diagnosis and prognosis.
 2. The MSA will confirm the incarcerated person will be released to a medical facility or a residential care facility. The name and address will be provided to all on the email chain.
- C. Inmate Processing Division (IPD)
 1. Will determine if other types of release are applicable.
 2. If no other form of release is applicable, IPD will provide a summary of current charges, holds, court dates and sentence status, date of imposition, actual release date, name of sentencing judge or name of judge assigned the case, as well as any special notes or considerations.

II. APPROVAL PROCESS

- A. The DSB Captain designated by DSB command will email the DSB Assistant Sheriff a summary of the information gathered.
- B. The DSB Assistant Sheriff may authorize the release from Sheriff's custody of an incarcerated person who is no longer a threat to public safety and who suffers from significant and or life-threatening medical issues from which they are unlikely to recover.
 1. If approved by the DSB Assistant Sheriff, the designated captain will complete the notification letter to the presiding judge of the superior court. The letter will include:
 - a. The incarcerated person's name and current hospital location.
 - b. The incarcerated person's charges/sentence.
 - c. The date of the sentence, if applicable.
 - d. The physician's diagnosis of the incarcerated person's condition.
 - e. The physician's prognosis for the incarcerated person's recovery.
 - f. The CMO's summary and concurrence with diagnosis and prognosis.
 - g. The name and address of the medical facility or residential care facility to which the incarcerated person will be released.
 - h. The telephone number at which the DSB Assistant Sheriff may be reached.
 - i. The intended date and time of release. The date and time will be calculated to allow the presiding judge sufficient time to communicate any concerns about the planned release. Unless circumstances do not permit, the letter will be delivered via email to the presiding judge at least six business hours prior to the planned release.

2. During business hours the letter will be forwarded to the DSB Assistant Sheriff for signature. After hours, the designated captain may sign on behalf of the DSB Assistant Sheriff, if authorized.

III. LETTER PROCESSING/PRESIDING JUDGE NOTIFICATION

- A. The signed notification letter will be sent electronically to the following:
 1. Presiding judge
 2. Assistant presiding judge
 3. Supervising judge, Criminal Division
 4. District attorney liaison
 5. Court operations supervisor (specific to region)
- B. During business hours, the Detention Support Division will be responsible for emailing the letter.
- C. After hours and on weekends, the designated captain or designee will be responsible.
 1. If the presiding judge replies and indicates no objection, the release process will move forward as indicated in the letter, or sooner if possible.
 2. If the presiding judge indicates an objection or does not respond by the designated date and time to the planned release, the DSB Assistant Sheriff will contact the Sheriff or Undersheriff, who will decide whether to proceed with or rescind the planned release.
 3. If approved by the Sheriff or Undersheriff, the incarcerated person will be released on the date and time specified in the letter (unless otherwise ordered by the Sheriff or Undersheriff).

IV. RELEASE OTHER THAN TO A MEDICAL/RESIDENTIAL TREATMENT FACILITY

- A. If the incarcerated person is to be released anywhere other than a medical facility or residential treatment facility, the same procedures as above will be followed, with the following modifications:
 1. The CMO must additionally opine that the incarcerated person has six months or fewer to live.
 2. The MSA must affirm the following:
 - a. That the County has or will send mandated notifications to the State Department of Health Care Services and agree to bear certain costs. [*See* Government Code section 26605.6(c)(1)(A)]
 - b. That the County must pay the non-federal share of Medi-Cal.

3. The letter to the presiding judge will replace any statutory references to Government Code section 26606.5 with references to Government Code section 26606.6 and replace the address of the medical or residential treatment facility with the address where the released incarcerated person will reside upon release.

V. NOTIFICATION TO DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

The MSA or designee shall complete and submit a Transmittal Form for Notifying DHCS of Medi-Cal-Inmate Eligibility Program (MCIEP) Changes in Status for County Medical Probation or Compassionate Release Incarcerated Persons (DHCS Form MC 196) for any incarcerated person released from custody due to an approved compassionate release.