

DATE:	MAY 23, 2022
NUMBER:	Q.73
SUBJECT:	ARRAIGNMENT AND RELEASE UNDER P.C. 825
RELATED SECTIONS:	

PURPOSE

To fulfill the requirements of California Penal Code section 825 and *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991).

POLICY

All incarcerated persons not arraigned within 48 hours of arrest, excluding Saturdays, Sundays, and official court holidays, will be released from custody pursuant to California Penal Code section 825.

With the exception of Superior Court Bench Warrants, State Parole Warrants, and Out-of-County Warrants an incarcerated person must be taken before a magistrate within 48 hours from the time of their arrest, excluding Saturdays, Sundays and official court holidays. When the 48 hours expires at a time when the court is not in session, the time will be extended to include the duration of the next regular court session.

PROCEDURE

I. INTAKE

The Detentions Processing Technician (DPT) assigned to the intake position must ensure the arresting agency indicates the date and time of actual arrest on the Booking Intake/Personal Property Inventory (J-15) form. The J-15 form will then be time stamped to indicate the date and time the arrested person was accepted into custody.

II. PRE-BOOKING

- A. The DPT assigned to the pre-book position will record the actual arrest date and time as indicated on the J-15 form in the full personal data section of the pre-booking navigator screen.
- B. The date and time of arrest will determine the court date.
- C. The DPT assigned to the pre-book position will enter court appearance dates in the Jail Information Management System (JIMS) using extreme caution to ensure incarcerated persons are not being retained in custody beyond the limits specified in PC 825.
- D. If the 48 hours expires at a time when the court is not in session, the time shall be extended to include the duration of the next regular court session. In addition, every effort must be made to ensure that no court action (i.e., Court O/R or O/R issued by the District Attorney) has been taken prior to a PC 825 release.

III. INCARCERATED PERSONS NOT ARRAIGNED WITHIN 48 HOURS

If the arrested person is not arraigned during the time period prescribed herein, the Detentions Processing Supervisor (DPS) will authorize the release of the incarcerated person per PC 825, unless extenuating circumstances prevail (i.e., per court order, if the complaint is issued; if the incarcerated person was too sick to appear in court or had to remain in a safety cell for appropriate reasons).

IV. SUPERVISORY RESPONSIBILITIES

To enhance quality control and delineate supervisory responsibility, the following shall apply:

- A. The DPT shall review all incarcerated person custody records for PC 825 releases for accuracy of all information including, but not limited to the following:
 - 1. Correct incarcerated person being considered for release
 - 2. Correct computation of time in custody
 - 3. Arrest date and time
 - 4. Acceptance date and time
 - 5. Court date
 - 6. Computer update
 - 7. Court papers if any
- B. After confirming the accuracy of the arrest information, the DPT will prepare all required documents along with the incarcerated person's custody record and provide to the DPS for review. Upon completion of the review, the DPS shall sign the necessary documentation in the designated area authorizing the release pursuant to PC 825.

In the event of serious or violent misdemeanor or felonies, a copy of the charges for the arrest eligible for release per PC 825 will be provided to the watch commander. The watch commander will determine whether or not the arresting agency will be notified of the pending release.

V. RELEASE

All incarcerated persons who are released in accordance with the provisions of PC 825, or as the result of a dismissal, will be processed completely out of the detention facility. No step of the release process will be circumvented, unless there are unrelated cases holding them in custody.

- A. If the original arresting agency wishes to re-arrest the incarcerated person for the same charges, they may do so after the incarcerated person has left the facility.
- B. Once the incarcerated person has been re-arrested, the officer will present the DPT assigned to the intake position with a properly completed J-15 form. The incarcerated person will then be processed as a new booking.

- C. Under no circumstance will an incarcerated person released pursuant to PC 825 be held within the facility and merely re-booked, except as outlined in Part VI below.

VI. REBOOK BY DISTRICT ATTORNEY OR ATTORNEY GENERAL

There are instances when a complaint has been filed against a defendant by the District Attorney/Attorney General, and the defendant is arraigned, but the case is dismissed by the court, usually as the result of a key witness not appearing for the preliminary hearing. In these instances, only the District Attorney Investigator/Attorney General Investigator is authorized to “rebook” the defendant on the same case without actually releasing the defendant from custody. To accomplish these rebooks, the following procedure must be followed:

A. DISTRICT ATTORNEY/ATTORNEY GENERAL INVESTIGATOR

1. The investigator must come to the detention facility and personally inform the defendant of the circumstances and that he/she is being rebooked on the same case.
2. The investigator will then provide the DPT with a completed J-15 form with the “REBOOK BY D.A.” or “REBOOK BY A.G.” notation in the upper border and the court document directing dismissal for the case attached there to.

B. DETENTIONS PROCESSING STAFF

1. The DPT will time stamp the J-15 form for PC 825 purposes and will use the form as authorization to rebook the case.
2. After the rebook has been completed, the court document directing dismissal will be used as authorization to close the original arrest. This procedure will not be used to circumvent the time limitations for arraignment as set forth in Section 825 of the Penal Code.