

# KERN COUNTY SHERIFF'S OFFICE

## Detentions Bureau Policies and Procedures

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**TITLE:** CRIMINAL COMPLAINT – GENERAL POLICY

**C-1320**

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**APPROVED BY:** Detentions Bureau Chief Deputy Cindy Cisneros

**REFERENCE:** Section 831.5, 836, 836.5, California Penal Code

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### **POLICY**

The purpose of this procedure is to establish a uniform process for the filing of criminal complaints within the Lerdo detention facilities. This includes criminal complaints resulting from in-custody activity by inmates confined in the Kern County Sheriff's Department detention facilities, or those resulting from criminal activity by citizens on detention facility grounds. The objective of this policy is to ensure that complaints are obtained in compliance with the California Penal Code, specifically sections 831.5, 836 and 836.5.

When an offense is committed by a person already in the custody of the Kern County Sheriff's Department, the additional charges will be added at the time a criminal complaint is filed. This is, in effect, an arrest.

All arrests made by deputy sheriff personnel shall be made in compliance with Penal Code Section 836. All arrests by detention officer personnel shall be made in compliance with Penal Code Section 831.5 and 836.5. Detention officers are defined as "public officers" or "custodial officers" and as such, their powers of arrest are limited to the following circumstances:

- Make arrests for misdemeanors and felonies within the local detention facility pursuant to a duly issued warrant (PC 831.5).
- Make arrests of persons without a warrant whenever he has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his presence (PC 836.5).

This policy does not preclude detention officers from being the primary investigating officers in either misdemeanor or felony arrests, however, for warrantless felony arrests, the arresting officer shall be a deputy sheriff.

All arrests/complaints made from the Lerdo Detention Facilities will fall under the jurisdiction of the Shafter Court, with the exception of arrests made by a warrant.

All complaint packages shall include the following:

- Three copies of the approved report for each defendant.
- Three copies of each defendant's rap sheet.
- Three copies of the descriptive sheet (accessed in CLETS).
- Three copies of the inmate's station card.
- Other related paperwork as needed (Under the Influence Sheet, etc.).

**PROCEDURE A. In-Custody Criminal Activity - Misdemeanor (Committed in the Officer's Presence)**

**The deputy/detention officer will:**

- When criminal activity is suspected, investigate and write a crime and incident report prior to the end of the shift on which the activity occurred.
- Notify the shift supervisor of the situation. The shift supervisor shall determine if a hold should be placed on the inmate.
- If it is determined that a hold shall be placed, a Field Arrest Data form shall be completed, including the Probable Cause Declaration.
- Complete a 2012b form and attach it to a copy of the crime and incident report. In cases where evidence is sent to the lab and we are awaiting results prior to holding a disciplinary hearing, route the 2012b with the complaint package.
- If evidence is being sent to the lab for analysis, ensure the paperwork is marked "Lerdo" and the specific facility, so the lab can properly route the results.
- Classification should be notified, and a new location should be provided for the inmate, if necessary.
- **Attach a photocopy of the inmate's station card to the report and submit**

the completed report, including all relevant paperwork, to the shift supervisor prior to the end of the shift.

**The shift supervisor will:**

- Review, sign and date the report.
- Ensure that all relevant paperwork, including a **copy of the F.A.D.**, is attached to the report.
- Submit the crime and incident report as well as a copy of the F.A.D. to the clerical staff so the clerical staff can add a supplemental booking in CJIS reflecting the charges on the report.
- **When a complaint is to be filed on inmates housed at Lerdo Minimum Facility, the involved inmates shall be transferred to Lerdo Pre-Trial.**

For inmates being transferred, a copy of the crime and incident report and the F.A.D. shall accompany the inmate.

- **In all cases**, the F.A.D. should be routed to Pre-Trial Administration so the Probable Cause Declaration can be signed by a judge.

**The clerk will:**

- If an F.A.D. is done, enter the charges on the F.A.D. for each involved inmate in CJIS under “IMMNTSUP” or “Inmate Maintain Supplemental.”
- Make one copy of all reports for the report log.
- Make one copy of all reports for the inmate’s file.
- Submit the original crime and incident report with all attachments to the administrative sergeant or designee.

**The administrative sergeant or designee will:**

- Ensure that three copies of the crime and incident report are made.
- Ensure that three copies of the station card are made and attached to the crime and incident report.

- Ensure that a rap sheet and a descriptive sheet are obtained through CLETS for each defendant. Three copies of the rap sheet/descriptive sheet should be attached to each of the three copies of the crime and incident report.
- Enter the complaint request into CJIS under “CMPRQMNT” or “Complaint Request Maintain.”
- Enter the complaint request on the complaint log.
- Check in CJIS to see if the involved inmate is on felony probation; if so, notify the probation officer of the current charges. The crime and incident report may be faxed to the probation officer if requested.
- Ensure that the complaint package is transported to the Shafter District Attorney on the date the complaint is requested.

**PROCEDURE B. In-Custody Criminal Activity - Misdemeanor (Not Committed in the Officer’s Presence)**

In accordance with PC 836 and PC 836.5, a peace officer or public officer may arrest a person *without a warrant* whenever he has reasonable cause to believe that the person to be arrested has committed a misdemeanor *in his presence*. (See PC 836 for exceptions.) Therefore, when a person is suspected of committing a misdemeanor *not in the officer’s presence*, the following procedure should be followed:

**The deputy/detention officer will:**

- When criminal activity is suspected, investigate and write a crime and incident report prior to the end of the shift on which the activity occurred.
- Complete a 2012b form and attach it to a copy of the crime and incident report. In cases where evidence was sent to the lab and we are awaiting results prior to holding a disciplinary hearing, route the 2012b with the complaint package.
- If evidence is sent to the lab for analysis, ensure the paperwork is marked “Lerdo” and the facility at which the incident occurred.
- Submit the completed report to the shift supervisor prior to the end of the shift, **including a copy of the inmate’s station card.**
- Classification should be notified and a new location should be provided, if necessary.

**The shift supervisor will:**

- Review, sign and date the report.
- Submit the original report to the **administrative sergeant or designee**.

**The administrative sergeant will:**

- Ensure that three copies of the approved report are made for each defendant named in the complaint.
- Ensure that three copies of the inmate's station card are made and attached to the crime and incident reports.
- Enter the complaint request in CJIS under "CMPRQMNT" or "Complaint Request Maintain."
- Enter the complaint request on the complaint log.
- If the involved inmate is on felony probation, notify the probation officer.
- Ensure the complaint package is transported to the Shafter District Attorney on the date the complaint is requested.
- Monitor the complaint request log. If a warrant is issued on the charges, ensure that the warrant is added to the inmate.

**PROCEDURE C. In-custody Criminal Activity (Felony)**

**All procedures outlined in Procedure A "In-Custody Criminal Activity (Misdemeanor)"**

**should be followed with the following exceptions:**

**If the reporting officer is a detention officer, the officer will:**

- Whenever felony criminal activity is suspected, the officer will complete the top portion only of the F.A.D., excluding the Probable Cause Declaration.
- The officer will notify the shift supervisor of the activity.

**If the investigating officer is a deputy, the deputy will:**

- Complete the entire F.A.D., including the Probable Cause Declaration.
- Notify the shift supervisor of the activity.

**The shift supervisor will:**

- Contact the Lerdo Paul Unit or an available deputy to review the reports and complete the Probable Cause Declaration on the F.A.D.
- Ensure that a copy of the F.A.D. is included with the original report submitted to clerical staff so that the deputy may be listed as the arresting officer on felony arrests.

**The Lerdo Paul Unit will:**

- Respond to the location requested by the shift supervisor.
- Review crime and incident report documenting the suspected criminal activity, and when necessary, contact the reporting officer for further details of the incident.
- After reviewing the crime and incident report, complete the Probable Cause Declaration on the F.A.D., including the date of arrest and signature, and route the F.A.D. to Pre-Trial Administration.

**The clerk will:**

List the deputy who completed the Probable Cause Declaration on the F.A.D. as the arresting officer when a supplemental booking is needed in CJIS.

**PROCEDURE D. In-Custody Escape Complaints**

**In situations where an inmate escapes and is re-captured prior to the completion of the original crime and incident report, the following procedure will be followed:**

- Determine if the inmate was in custody on misdemeanor or felony charges.
- If the inmate was in custody on misdemeanor charges, follow the procedure outlined in **Procedure A “In-Custody Criminal Activity (Misdemeanor)”**.

- If the inmate was in custody on felony charges, follow the procedure outlined in **Procedure C “In-Custody Criminal Activity (Felony)”**.

**The shift supervisor will:**

- Ensure that a print-out of the inmate’s current booking record, including all bookings, is obtained and attached to the crime and incident report to be forwarded to the clerical staff.

**PROCEDURE E. Out of Custody Escape Complaints**

**In situations where an inmate escapes and is not re-captured prior to the completion of the crime and incident report, the procedures outlined in Procedure C “In-Custody Criminal Activity (Felony)” shall be followed. This procedure shall be followed for all out of custody escapes, whether felony or misdemeanor, with the following exceptions/additions:**

**The deputy will:**

- Complete the Probable Cause Declaration on both misdemeanor and felony escapes. The Probable Cause Declaration will be posted in Pre-Trial receiving. In the event that the escapee is arrested prior to the complaint going to warrant, the arresting officer will review the Probable Cause Declaration and be listed as the arresting officer on the F.A.D. At the time the person is **arrested** on the escape, the F.A.D. will be routed to Pre-Trial Administration to be signed by a judge.

**The shift supervisor will:**

- Ensure that the inmate’s station cards and laundry card are attached to the original report.

**The clerk will:**

- Notify classification of the escape so the inmate can be reclassified and released in CJIS.

**The administrative sergeant will:**

- Ensure that three copies of the inmate’s current booking information are attached to the original report.

**PROCEDURE F. All Felony/Misdemeanor Arrests of Citizens All arrests of citizens on facility grounds by deputy sheriff personnel shall be made in accordance with**

**Penal Code Section 836. All arrests of citizens on facility grounds by detention officer personnel shall be made in accordance with Penal Code Section 831.5 and 836.5, specifically:**

- Detention officers may make arrests for misdemeanors and felonies within local detention facilities pursuant to a duly issued warrant.
- Detention officers may arrest a person without a warrant whenever there is reasonable cause to believe the person to be arrested has committed a misdemeanor in his presence.
- In any cases in which a person is arrested for an open misdemeanor charge, and the person does not demand to be taken before a magistrate, the detention officer making the arrest shall prepare a written notice to appear and release the person on a promise to appear (PC 836.5(c)).
- In any case in which a person is to be arrested for the commission of a misdemeanor is **going to be booked on the charge**, the arresting officer shall be a deputy sheriff.

**PROCEDURE G. Record Keeping (Criminal Complaint Log)**

**The administrative sergeant or designee will:**

- Complete the necessary entries in the complaint log when complaints are submitted to the Shafter District Attorney, including:
  - The crime case number;
  - The inmate's name and booking number, and the charges;
  - The arresting officer;
  - The date submitted to the D.A.;
  - The disposition (filed/declined) when returned from the D.A.;
  - The date the disposition is received;
  - Date lab work sent and returned (if any was sent);



- Monitor the log to ensure that warrants are added on complaints sent to D.A. without being booked at the time of the complaint.