

# KERN COUNTY SHERIFF'S OFFICE

## Detentions Bureau Policies and Procedures

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**TITLE:**       **RELEASE ON CITATION – MISDEMEANOR CHARGES**       **C-1400**

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<b>EFFECTIVE:</b>	<b>REVIEWED:</b>	<b>REVISED:</b>	<b>UPDATED:</b>
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**APPROVED BY:**   Detentions Bureau Chief Deputy Cindy Cisneros

**REFERENCE:**     P.C. 827.1, 853.6, Anderson V. Kern

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### **POLICY**

The Kern County Sheriff's Office will process and release from custody those arrestees who meet the criteria for release prescribed in PC 827.1 and PC 853.6. This policy pertains to individuals who have been arrested on misdemeanor warrants of arrest and/or open misdemeanor arrests in which the arresting officer was unable to issue a citation in the field, making booking necessary.

The Kern County Sheriff's Office operates its detention facilities within federal population guidelines established in Anderson v. Kern. The release of misdemeanants on citation may at times be necessary to prevent overcrowding and remain compliant with the federal order.

Individuals who are arrested for a misdemeanor will be received, processed, and booked as directed by the receiving facility's policy and procedure. Except as detailed below, the incarcerated person will be cited and released per the receiving facility's policy upon completion of the booking process.

The Misdemeanor Incarceration Report (MIR) covers the reasons for non-field release contained in PC 853.6(i) along with additional circumstances in which an officer is given the authority to book instead of a cite and release in the field. The MIR establishes the authority to book an arrestee but does not indicate whether an incarcerated person should be cited and released or housed.

State charges such as PC 148 (resisting arrest), PC 12031 (CCW violation), and PC 148.9 (false information) will not be considered exceptions to the general release policy and will be subject to a citation release.

The decision to either cite and release or house an incarcerated person will be made according to the following guidelines:

**DIRECTIVE #1 Warrant Arrests (PC 827.1)**

Any individual arrested for a misdemeanor warrant of arrest that does not fall under the criteria enumerated in PC 827.1 may be released on a citation. Based on Bureau incarcerated person population needs, the Classification unit may release individuals arrested on a "no bail" misdemeanor warrant, provided that:

- The warrant does not fall under the criteria enumerated in PC 827.1,
- The no bail warrant is not issued for fail to appear for commitment,

Arrest warrants for crimes of violence (including misdemeanor bench warrants for crimes of violence) may be considered ineligible for release if the arrestee poses an imminent threat to the public safety.

**DIRECTIVE #2 Open Misdemeanor Arrests (PC 853.6)**

Individuals arrested on open misdemeanor charges will be released on citation unless one or more of the reasons for non-release enumerated below apply. If such a reason for non-release applies, the Shift Supervisor will determine if the individual will be held in custody or released on a citation.

The Shift Supervisor will review the Probable Cause Declaration, Misdemeanor Incarceration Report, and any other pertinent information to determine if the individual should be held pending bail or arraignment. While determining a subject's ineligibility for release the Shift Supervisor will consider issues including, but not limited to, the following criteria:

- The seriousness of the crime and existence of a clear and imminent threat to public safety if the arrestee were to be released;
- Crimes involving children where there is likelihood the crime would continue if the subject were released;
- An arrest for a misdemeanor violation of a protective court order (PC 273.6) involving domestic violence, in which case the subject will not be released (see PC 853.6(a));
- An arrest for misdemeanor contempt of court (PC 166(c)(1)) involving domestic violence, in which case the subject will not be released;
- The person demands to be taken before a magistrate or refuses to sign the promise to appear, in which case the person will be kept in custody until they sign the promise to appear or is taken before a magistrate