

# KERN COUNTY SHERIFF'S OFFICE

## Detentions Bureau Policies and Procedures

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**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM      G-1201**

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

**REFERENCE:** Kern County Sheriff's Office Detentions Bureau Policy G-1200; California Penal Code Section 636; California Penal Code Section 851.5; C.C.R. Section 1067 of Title 15, Section 3282; U.S. v. Van Poyck (9<sup>th</sup> Cir. 1996) 77 F3d 285; U.S. v. Eggleston (8<sup>th</sup> Cir. 1999) 165 F.3d 624; U.S. v. Horr (8<sup>th</sup> Cir. 1992) 963 F.2d 1124; People v. Riel (California 2000) 22 Cal 4<sup>th</sup> 1153; Rights of Prisoners (2<sup>nd</sup> Ed.) Section 8.12 and cases there cited.

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### **POLICY**

The Kern County Sheriff's Office maintains the authority to record and monitor conversations on incarcerated person telephones located within its facilities using the Incarcerated Person Telephone Monitoring System. This system will only be utilized for legitimate law enforcement needs in accordance with the law.

Incarcerated person telephone conversations are subject to being recorded and randomly monitored to detect threats to the safety and security of Detentions Bureau facilities and to aid in criminal investigations. Incarcerated people that are considered to present a significant security risk or are suspected of criminal behavior may be subject to selective monitoring.

The Incarcerated person Services Section is responsible for the Incarcerated Person Telephone Monitoring System. The Inmate Services Section Manager shall designate a Telephone Service Administrator who will oversee the use of and access to the Incarcerated Person Telephone Monitoring System.

### **DEFINITION(S):**

- **Confidential Incarcerated Person Telephone Call:** Telephone calls to private numbers that are not subject to being monitored/recorded, including calls between an incarcerated person and their attorney, licensed physician, or religious advisor.

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**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM G-1201**

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- **Incarcerated Person Telephone Monitoring System:** A computer-based system used to monitor and record incarcerated person telephone lines.
- **Workstation:** Any Kern County Sheriff's Office computer, as designated by the Inmate Services Section Manager, that is used to monitor live or recorded incarcerated person telephone calls or visiting conversations
- **Main Workstation:** A computer used to monitor and retrieve recorded telephone calls, make specific telephone calls "private", or "block" specific numbers called. The computer located in the Inmate Services Section office is the designated main workstation for downloading recorded calls to recordable disc or other approved media, data back-up, and evidentiary file transfer.
- **Monitoring:** The act of listening in on an incarcerated person telephone call or visiting conversation.
- **Recording:** A digital sound file stored on the Incarcerated Person Telephone Monitoring System computer hard drive(s) for subsequent use in playback, saving files to system back-up device, and/or transfer to other electronic media for evidentiary purposes.
- **Blocked Number:** A telephone number that cannot be called from an incarcerated person phone.
- **Private Number:** A telephone number that is not to be monitored or recorded by the Incarcerated Person Telephone Monitoring System.

**DIRECTIVE #1**

The following provisions apply to the use of the Incarcerated Person Telephone Monitoring System:

Telephone conversations between an incarcerated person and their attorney, licensed physician, or religious advisor are considered confidential communications and will not be knowingly recorded or monitored without a warrant. In the event that a telephone call being monitored or recorded is determined to be between an incarcerated person and their attorney, licensed physician, or religious advisor, the monitoring/recording will be immediately terminated.

**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM G-1201**

- All Incarcerated Person Telephone Monitoring System equipment, media storage, reports, and related documents will be maintained in secure locations. Only personnel authorized by the Inmate Services Section Manager will have access to the Incarcerated Person Telephone Monitoring System Main Workstation or monitoring capability at a Sheriff's Office workstation.
- Prior to accessing an Incarcerated Person Telephone Monitoring System Workstation, each user must have a completed and approved usage request (DBPPM G-1201 attachment A) on file.
- All authorized users of the Incarcerated Person Telephone Monitoring System Workstations shall sign a "System Admonition Form" (DBPPM G-1201 Attachment D) prior to being given access to the system. Once authorized, the user does not need to complete the form for any subsequent uses. Signed admonition forms will be maintained by the Inmate Services Section Manager's or their designee.
  - All Classification Deputies are authorized users unless their access has been specifically rescinded by the Inmate Services Section Manager.
- Any person authorized to use the Incarcerated Person Telephone Monitoring System will be advised of this policy prior to accessing system. The Inmate Services Section Manager or their designee may terminate the access of any person who does not adhere to this policy.

**Note:** Any employee that does not adhere to this policy may be subject to discipline up to and including termination.

- All users approved by the Inmate Services Section Manager to monitor live or recorded calls from a workstation will log into the Incarcerated Person Telephone monitoring system using CAD ID for the Administrative review and tracking
- Allied agencies will sign on using a generic log on provided by a Classification Deputy and complete the "System Access Log." (DBPPM G-1201 Attachment E)
  - Classification Deputies will forward completed log pages to the Inmate Services Section Sergeant, who will retain them for two years from the date of access.
- The telephone numbers of State of California Bar Association members with offices in Kern County will be obtained from local phone company telephone directories. As new directories become available, the telephone numbers will be updated by Inmate Services staff and/or the contracted telephone vendor as

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**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM G-1201**

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designated by the Inmate Services Section Manager. Those numbers will be programmed into the Incarcerated Person Telephone Monitoring System as "private," and therefore will not be subject to monitoring or recording.

**DIRECTIVE # 2**

**Incarcerated people and citizens will be notified that telephone calls are subject to monitoring and recording as follows:**

- **Initial notification:** During the booking process each arrestee will be presented with a form (DBPPM G-1201 Attachment C) in the English and Spanish languages, to sign acknowledging awareness of telephone and visiting recording and monitoring. The signed document will be placed in the incarcerated person's file.
- **Posted notice:** Clearly visible signs shall be posted on the housing of each incarcerated person telephone. The signs, in both English and Spanish languages, will advise the incarcerated people that all calls are subject to monitoring and recording.
- **Audible Notice to Incarcerated People and Citizens:** An audible admonishment will be played over the incarcerated person and citizen telephones. This notice is heard in English or Spanish depending on the language selection made by the incarcerated person at the beginning of the telephone call process.

The incarcerated person and the called party will both hear a prerecorded message indicating that the call is originating from a Kern County Sheriff's Office Jail facility. Additionally, unless the number is designated as a "private number", the following notice will be heard by both parties:

***"This call is subject to monitoring and recording"***

**DIRECTIVE # 3**

Incarcerated people shall be issued a PIN during the booking process, except in the following circumstances:

**When an incarcerated person is booked for any of the following open charges:**

- Detox or 647(f)

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**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM G-1201**

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- HS11550
- VC23152 (a)/(b)
- When the shift supervisor determines that it would not be appropriate to issue a PIN.

When this occurs, the Data Entry Operator will:

- Place both of the opening incarcerated person account receipts in the incarcerated person property bag after notifying the incarcerated person of their opening balance and obtaining the incarcerated person's signature.
- Notify the incarcerated person that they are not receiving a telephone PIN.
- Advise the incarcerated person that they can request a telephone system PIN from a housing Deputy at a later time.
- In cases of permanently disabled incarcerated people only, log in to the incarcerated person telephone system and remove the check symbol from the "active" box.

**Note:** Hearing impaired incarcerated people should not be issued a PIN. TTY telephones are available for use by hearing impaired incarcerated people.

### **Procedure A: Immediate Requests for a Private Call or Phone Number**

Incarcerated people may request to make immediate private calls under the following circumstances. Any request that does not meet these criteria will be deemed non-immediate and will be processed as described in Procedure B of this section.

Any immediate request should include all known contact information for the attorney or licensed physician to facilitate the promptest handling of their request.

- **New Arrivals:** New arrival incarcerated people in booking and intake areas (only) may request to place a confidential telephone call to an attorney from a "free phone".
  - The Deputy receiving the request will forward it to the facility Shift Supervisor or on-duty Classification Deputy to ensure that the call is not monitored or recorded.

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**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM G-1201**

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- The facility Shift Supervisor or on-duty Classification Deputy will attempt to verify the telephone number as detailed in **Procedure C** of this policy.
- **Immediate Need for Attorney/Client Call:** If an incarcerated person demonstrates an immediate need to place a confidential attorney/client telephone call to an attorney's number which is not currently flagged as "private," the Inmate Services Section Manager or designee will be contacted to ensure the call is not monitored or recorded pending verification of the number.
- **Urgent Need to Contact a Licensed Physician:**
  - The Classification Supervisor or on-duty Classification Deputy will attempt to validate the telephone number using the guideline in **Procedure C** of this policy.
  - Pending verification, the Classification Supervisor or on-duty Classification Deputy will ensure that the call is not monitored or recorded.

**Procedure B: Non-Immediate Requests for a Private Call or Phone Number**

Incarcerated people may request to have their attorney's phone number designated as a "private number" or to place a confidential telephone call to a religious advisor or licensed physician.

Such requests must:

- Be submitted on an "Incarcerated Person Request Form" at least five days prior to the call.
- Include all known contact information for the attorney, licensed physician, or religious advisor.

Requests for private number or calls will be routed as follows:

- Requests to make an attorney's number private will be forwarded to the Inmate Services Section Manager for verification of the number.

Requests to make a confidential call to a religious advisor will be forwarded to the Chaplain staff for verification of the number.

- Requests to make a confidential call to a licensed physician will be forwarded to the Facility Manager.

**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM G-1201**

- The Facility Manager will approve or deny the request.
- If approved, the Facility Manager will forward the request for the Inmate Services Section Manager for verification of the number.

Upon receipt of a request regarding a private phone call or number, the staff designated above will ensure that the number is verified in accordance with Procedure C of this section.

**DIRECTIVE B-1**

Attorneys, individuals assisting in the preparation of the case, and/or investigators or paralegals may request that a telephone number be designated as “private”. Such requests must be received on legal firm letterhead and will be forwarded to the Inmate Services Section Manager.

**Procedure C: Verification of Requests for Private Calls or Phone Numbers**

The designated staff will verify phone numbers as follows:

**Attorneys**

Requests to designate a new private attorney telephone number will be routed to the Inmate Services Section Manager.

**Upon receipt of a request, the Inmate Services Section Manager or their designee will:**

- Call the attorney’s office to establish the authenticity of the request and obtain the attorney’s bar card number;
- Approve or deny the request within five days of the receipt of the request.

Examples of validity checks (not all inclusive):

- Verify California State Bar Association number with state;
- Verify business address and telephone number in a telephone directory;
- Verify information by whatever means deemed necessary to satisfy safety and security concerns.

### **Private Physicians**

Requests to make a private telephone call to a licensed physician or to designate a new private telephone number for a licensed physician will be routed to the facility administrative sergeant.

**Upon receipt of a request, the facility administrative sergeant or designee will validate the authenticity of the licensed physician by:**

- Calling the Physician.
- Checking the name and phone number in the telephone book.
- Checking the physician's status with the State License Board.

The Facility Administrative Staff may verify the information by whatever means deemed necessary to satisfy safety and security concerns.

### **Religious Advisors**

Requests for a confidential telephone conversation with a religious advisor will be routed to designated Chaplain staff.

**Upon receipt of a request, the designated Chaplain staff shall attempt to verify the authenticity of the named religious advisor by:**

- Comparing the information with known religious organizations and counselors;
- Attempting to contact the religious advisor for verification of their status in the religious organization;
- Verifying the information by whatever appropriate means necessary to satisfy safety and security concerns.

### **Procedure D: Resetting Incarcerated Person PIN Numbers**

Upon receipt of an incarcerated person request to change or reset their PIN number, a responding Deputy will:

- Personally verify the request with the incarcerated person;
- Obtain a new 4-digit number from the requesting incarcerated person (other than 0000);



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**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM G-1201**

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- Reset the incarcerated person's PIN number using the appropriate computer system.
- Provide the new PIN number to the incarcerated person.

**Procedure E: Blocking Outgoing Telephone Calls**

If a member of the public notifies any Detentions Bureau staff member that they are receiving unwanted telephone calls which are originating from incarcerated person telephones within Sheriff's Office jail facilities, the individual may request to have their number "blocked."

Any Detentions Bureau staff member receiving a "blocked number" request will forward it to the Inmate Services Telephone Service Administrator for consideration.

**Upon approving a block number request, the Inmate Services Telephone Service Administrator will:**

- Log the following information on the "Blocked or Private Numbers Log":
  - The name of the person who requested the "block."
  - The telephone number to be "blocked."
  - The date and time the block was placed.
  - The name of the person making the log entry.

The same criteria and procedure required to place a block on a telephone number shall be utilized when removing a "block."

**Procedure F: Outside Agency Requests for Telephone Number "Blocking"**

Outside law enforcement agencies may request that a block be placed on out-going telephone calls to specific phone numbers in order to protect a witness or victim from harassment or intimidation.

The individual representing the law enforcement agency requesting the block will:

- Provide the information necessary, preferably on departmental letterhead, for completion of the "Outside Person/Agency Request for Private/Blocked Telephone Numbers" form.

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**TITLE: INCARCERATED PERSON TELEPHONE MONITORING SYSTEM G-1201**

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Requests to block telephone numbers must be approved by the Inmate Services Section Manager or their designee.

- All “blocked” numbers shall be logged in the “Blocked or Private Numbers Log.”

**Procedure G: Requests from Outside Agencies**

To assist with law enforcement investigations, the Kern County Sheriff’s Office will cooperate with law enforcement agencies requesting recorded incarcerated person telephone conversations and/or requests to monitor live telephone calls whenever possible.

Requests for such assistance will be subject to the following provisions:

- All law enforcement officers shall complete a request for recordings (DBPPM G-1201 Attachment A).
- Any law enforcement officer requesting recorded incarcerated person telephone conversations and/or requesting to make arrangements to monitor live telephone calls shall provide current law enforcement picture identification prior to monitoring any telephone call or accessing previously recorded telephone conversations.
- Staff providing access to the system or releasing a recording will verify the officer’s identification and document the verification on the Monitoring/Recording Request Form (**Attachment A**).
- Any subpoena duces tecum for evidentiary recordings of incarcerated person visiting conversations will be directed to the Inmate Services Section Manager or their designee for compliance with the subpoena.
- All written requests and subpoenas received will be attached to the appropriate usage request form. The forms will then be forwarded to the Inmate Services Section where they will be retained for two years beyond the expiration date of the request.