

# KERN COUNTY SHERIFF'S OFFICE

## Detentions Bureau Policies and Procedures

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**TITLE: CIVIL PROCESS OR SUBPOENA SERVICE ON  
INCARCERATED PEOPLE BY PRIVATE PROCESS SERVERS**

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**C-1100**

| <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. 4013

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### **POLICY**

Division Managers will ensure that all civil processes directed to incarcerated people are handled in accordance with California Penal Code, Section 4013.

**P.C. 4013 states: A Sheriff or jailer, upon whom a paper in a judicial proceeding, directed to a prisoner in his custody, is served, must forthwith deliver it to the prisoner, with a note thereon of the time of its service. For a neglect to do so, he is liable to the prisoner for all damages occasioned thereby.**

All civil processes directed at incarcerated persons will be served by the Shift Supervisor, or designee. Civil process servers do not have the right to serve an incarcerated person personally, unless authorized by the Shift Supervisor.

### **DIRECTIVE #1**

When a civil process is being served by a private person, or Civil Process Server, the process will be delivered in accordance with the Procedure prescribed below.

If the civil process is not directed to the Sheriff, then no court appointment will be made for the court session indicated on the civil process. The incarcerated person will be notified that if he wishes to attend the court session and will still be in custody on the court date, he must apply to the court from which the process originated for a removal order. The court from which the civil process originated will be notified that the incarcerated person is in custody and a removal order will be required for the incarcerated person to be transported to court.

**Procedure A: Service of civil process or subpoena by a Civil Process Server or Private person**

**When a civil process server or private person arrives at any Detention Facility with a civil process to be served on an incarcerated person, the staff member will:**

- Notify the Shift Supervisor.

**The Shift Supervisor or designee will:**

- Contact the process server and find out the name of the incarcerated person to be served.
- Determine if the incarcerated person is at the facility.

**If the incarcerated person is away from the facility:**

- Tell the Process Server the incarcerated person is away from the facility and the approximate time the incarcerated person will return to the facility, if known.

**If the incarcerated person is in the facility:**

- Advise the process server that if he/she desires the Sheriff's Office to serve to process, the process must be submitted to the Sheriff's Department Civil Division, 1415 Truxtun Ave., during normal business hours.
- If the process server desires to serve the process themselves, allow the process server access to the incarcerated person for this purpose. The process server does not have to hand the process to the incarcerated person personally. The service is valid if the process is handed to the incarcerated person in view of the process server. The process server will sign the return, not the staff member.
- If the civil process is not directed to the Sheriff, then the Shift Supervisor or his designee will give the incarcerated person a copy of the form Incarcerated Person Notification (see Attachment A of this section) with the civil process. The incarcerated person will sign a second copy of the form that will be placed the incarcerated person's file
- If the civil process is directed to the Sheriff and involves a court appearance, then have the clerical staff enter the court date in the computer. If the civil process is not directed to the Sheriff, then have clerical staff forward a copy of the form Notification of Incarcerated Person in Custody (see Attachment B of this section) to the court from which the civil process originated. A copy of the letter sent will be placed in the inmate's file.
- Place a copy of the civil process in the incarcerated person's file.

- Log the following in the Shift Supervisor's logbook:
  - The process server's name.
  - The incarcerated person's name.
  - To whom the process was directed.
  - The date and time of service any court date listed on the process.