

KERN COUNTY SHERIFF'S OFFICE

Detentions Bureau Policies and Procedures

TITLE: VISITING- MONITORING/RECORDING VISITS **E-700**

EFFECTIVE:	REVIEWED:	REVISED:	UPDATED:
July 11, 1994	04-01-2026	04-12-2010	10-10-2025

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REFERENCE: Title 15, Section 1062, C.C.R. California Penal Code Sections 636, 2600, 2601. People v. Loyd (2002) 27 Cal. 4th 997Lanza v. New York (1962) 370 U.S. 139, DBPPM E200, E300, DBPPM G-1201, Attachment A, G-1201 Attachment E

POLICY

The Kern County Sheriff's Office maintains the authority to record and monitor conversations between incarcerated people and their visitors within its facilities and via remote visiting through incarcerated persons tablets. The Detentions Bureau will ensure that the Incarcerated Person Visit Monitoring System is utilized only for legitimate law enforcement needs and in accordance with applicable State and Federal laws.

Incarcerated person visiting conversations will be recorded and may be randomly monitored to detect threats to the safety and security of Detentions Bureau facilities and to aid in criminal investigations. Incarcerated people that present a significant security risk or are suspected of criminal behavior may be selectively monitored.

Conversations between an incarcerated person and their attorney, physician, or religious advisor are considered confidential and will not be knowingly recorded or monitored without a warrant.

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

DEFINITIONS

- **Confidential Conversation:** Communication between an incarcerated person and their attorney, physician, or religious advisor. Such communications will not be monitored or recorded.

- **Incarcerated Person Visit Monitoring System:** A device used to monitor and record incarcerated person visiting lines.
- **Workstation:** An access terminal that is used to monitor and retrieve recorded visiting conversations from the Incarcerated Person Visit Monitoring System. The workstation located in the Inmate Services Section office is the designated workstation for data back-up and evidentiary file transfer.
- **Monitoring:** The use of the term “monitoring” refers to listening to an incarcerated person visiting conversation.
- **Recording:** A digital sound file stored on the Incarcerated Person Visit Monitoring System computer hard drive(s) for subsequent use in monitoring, saving files to system back-up device, and/or transfer to other electronic media for evidentiary purposes.
- **Privacy Station:** A designated incarcerated person visiting station capable of having the recording and monitoring function temporarily disconnected by a control officer to conduct an approved confidential conversation, as defined above.
- **Inmate Services Section Telephone Service Administrator:** The person responsible for overseeing the use of and access to the Incarcerated Person Visit Monitoring System as designated by the Inmate Services Section Manager.

DIRECTIVE #1

Incarcerated person visiting conversations will be recorded and may be monitored unless the conversation is between an incarcerated person and their attorney, physician, or religious advisor.

DIRECTIVE # 2

Incarcerated people and visitors will be notified that visiting conversations are subject to monitoring and recording as follows:

- **Initial incarcerated person notification:** During the booking process each arrestee will be given a document, in the English and Spanish languages, to sign acknowledging awareness of phone and visiting recording and monitoring. The signed document will be placed in the incarcerated person’s file.

- **Posted notice to incarcerated people and visitors:** Clearly visible signs are to be posted in each visiting area. The signs, which will be in both English and Spanish languages, will read: ***“All calls are subject to monitoring and recording.”***
- **Audible Notice to incarcerated people and visitors:** An audible admonishment message will be played over the incarcerated person and visitor phone receivers. This notice is heard in English or Spanish depending on the language selection made by the incarcerated person at the origination of the visit process. The audible message admonishment will state: ***“All calls are subject to monitoring and recording.”***

Procedure A: Verification of Confidential Conversations

When a confidential visit is requested, staff will make a reasonable effort to verify that the visitor is the incarcerated person’s physician, attorney, or religious advisor.

- Verification of **attorneys** and **religious advisors** will be done in accordance with Sections E-300 and E-200, respectively, of this manual;
- Verification of **physicians** may include, but are not be limited to:
 - Calling the physician’s office;
 - Checking the name and phone number in the telephone book;
 - Checking the physician’s status with the State License Board;
 - Facility staff may verify the information by whatever means deemed necessary to satisfy safety and security concerns.

Note: As used in this policy, physician refers to an incarcerated person’s personal physician who is not affiliated with the medical care provided by the Sheriff’s Office.

Procedure B: Confidential Conversations

Any conversation between an incarcerated person and their attorney, physician, or religious advisor is considered confidential communication and will not knowingly be monitored or recorded without a warrant.

Visits with an attorney, physician, or religious advisor will be conducted in designated attorney visiting areas. If the designated attorney visiting areas are not available, such visits will be conducted at a privacy station upon the approval of a Shift Supervisor.

If a privacy station is used, the officer supervising the visit will:

- Notify the Shift Supervisor and obtain approval to utilize a visiting privacy station to conduct the visit;
- Ensure that the recording and monitoring capability of the privacy station is turned off;
- Document the visit in the station logbook, noting that the recording and monitoring capability of the privacy station was turned off.

If a conversation being monitored/recorded is determined to be between an incarcerated person and their attorney, physician, or religious advisor, the monitoring/recording will be immediately terminated.

- If this occurs, the officer supervising the visit will make an entry in the station logbook indicating that the conversation was inadvertently recorded and that the recording/monitoring capability of the visiting station was terminated as soon as possible.

Procedure C: System Access and Security

All Incarcerated Person Visit Monitoring System equipment, disk 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 Visit Monitoring System Workstation.

Incarcerated Person Visit Monitoring System Workstations will not be used unless there is a completed usage request (DBPPM G-1201, Attachment A) on file.

All authorized users of the Incarcerated Person Visiting Monitoring System Workstations shall have a signed "System Admonition Form" (DBPPM G-1201 Attachment D) prior to being given access to the system. These signed admonition forms will be maintained in a file located in the Inmate Services Section Manager's office.

With the exception of system users exempted by the Inmate Services Section Telephone Service Administrator, staff using the Incarcerated Person Visit Monitoring System Workstation will:

- Complete the "System Access Log." (DBPPM G-1201 Attachment E);
- Forward completed log pages to the Inmate Services Section Administrative Sergeant, who will retain them for a period of two (2) years from the date of access.

DIRECTIVE C-1

To assist with law enforcement investigations, the Kern County Sheriff's Office will cooperate with law enforcement agencies requesting recorded incarcerated person visiting conversations and/or requesting to monitor live visits 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 visiting conversations and/or requesting to make arrangements to monitor live visits shall provide a current law enforcement picture identification prior to monitoring any visit conversations or accessing previously recorded visit 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);
- All subpoenas' duces tecum for evidentiary recordings of incarcerated person visiting conversations will be directed to the Inmate Services Section Manager or their designee for further action to be taken in response to 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 and kept on file for two (2) years from the month the request expires.