
Release or Transfer from Custody

907.1 DISPOSITION OF ARRESTEES

Once the arrestee has been properly booked, the process to either release the person from custody or transfer the person to another custodial facility will occur as soon as practicable. The arrestee may be:

- (a) Released to the custody of another agency.
- (b) Released on a Written Promise to Appear (cite and release).
- (c) Released under the Immediate Booking and Release (IBAR) program.
- (d) Released under the provisions of Penal Code (PC) §849 (a)(b (1-2)).
- (e) Released on his or her Own Recognizance.
- (f) Released after posting bail.
- (g) Transferred to another custody facility.
- (h) Released or transferred in a manner not indicated above, pursuant to applicable state law and upon the approval of the Watch Commander or field/unit supervisor.

907.2 RELEASE TO ANOTHER AGENCY

An Irvine police officer may have occasion to take into custody a person wanted by another law enforcement agency. Under most circumstances, our agency will process the arrestee using our standard booking protocol.

However, the agency investigating the initial crime for which the person was arrested may have further interest in the arrestee for any of a variety of reasons. Upon the investigating agency's request, the arresting Irvine police officer shall prepare a Certificate of Release from Custody Form (IPD 76-12). At the time of the custody transfer a copy of the Certificate of Release shall be presented to the representative of the agency receiving the arrestee.

The arresting officer of this agency will prepare and submit an arrest report containing all relevant factual information surrounding the incident. The officer preparing the arrest report will ensure that a copy of the report is routed to the receiving agency as soon as practical.

907.3 WRITTEN PROMISE TO APPEAR (CITE AND RELEASE)

Penal Code §853.6 requires law enforcement agencies to use written promise to appear procedures in lieu of arrest for misdemeanor offenses with certain exceptions. It shall be the policy of this Department to release all qualified misdemeanants from custody on a Written Promise to Appear or citation form (if released from the field). This release will be accomplished from the custody facility unless circumstances dictate a field release.

Accepted Forms of Personal Identification: The Orange County Jail Detention and Release Office has established guidelines to follow when determining what types of personal identification

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constitute satisfactory evidence of identity for releasing arrestees. All forms of identification must have the person's picture on it. The following are considered satisfactory evidence of identity:

- (a) All forms of military identification.
- (b) California Driver's License (even if expired).
- (c) California Identification Card
- (d) Out-of-State driver's license (if California residency can be verified).
- (e) Work identification cards (Any verifiable major company).

The fact that an arrestee has an expired California Driver License or other form of ID, or has many aliases, is not sufficient reason to refuse release, as long as it can be established that he/she is who they portray themselves to be.

When an arrestee is being released from custody, the officer issuing the Certificate of Release must witness the signature of the arrestee on the form. If the arresting officer completes the release form in advance, but cannot be present when the arrestee is released, the watch commander or other officer should witness the signature, give the appearance instructions, and include their name on the form as an issuing officer. (The need may arise later in court to be able to establish the defendant did sign the form and was given the instructions about the need to appear and the court date.)

The arresting officer is required to complete an arrest/crime report and complaint request and attach the certificate of release form. A complaint request shall not be filed when a citation has been issued and the suspect released. The citation shall bear the DR number when issued and the issuing officer will attach a supplemental report setting forth all pertinent facts. The citation is the complaint request in these cases. Included on the supplemental shall be the following information:

- (a) Listing of any evidence or property
- (b) Witnesses
- (c) Citation number
- (d) Appearance date

With either form of release, the arresting officer is required to complete a witness list, which shall accompany the complaint request or citation.

Violators of restraining or protective orders involving domestic violence shall not be released on a written promise to appear. They shall be booked, then bailed, taken before a magistrate or transferred to another facility.

907.4 DETENTION ONLY - PENAL CODE §849(B) 1 OR 2

Pursuant to PC §849(b) (1), an arrestee may be released from custody without charges if there are insufficient grounds for making a criminal complaint against the person. This incarceration shall be documented as a "detention only" as provided by Penal Code §851.6 PC. Officers will

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prepare the arrest report and will specify the "detention only" status in the involvement code box. In addition, the "849" box shall be checked.

PC §849(b) (2) authorizes the release of an arrestee taken into custody for intoxication only and no further proceedings are desired. This arrest shall be documented as an "arrest" and the appropriate involvement code and arrestee status box shall be completed.

In either case, a copy of the Certificate of Release is to be given to the person taken into custody when he/she is released. The original release form shall accompany the officer's primary report and be given to the watch commander.

907.5 OWN RECOGNIZANCE RELEASE (OR)

Subjects placed under arrest for felonies may be eligible for a release on their own recognizance (OR) after the booking process is completed. As a general rule, OR releases will be completed at the Orange County Jail by the on-duty detention-release officer.

To obtain an OR release an officer must complete a "Request for OR Release" and FAX it to the Detention and Release Officer at the Orange County Jail. A judge may initiate a release of a defendant on his own recognizance. Telephone calls to the on-call OR Judge on behalf of defendants held in local police Departments do not have to go through detention release. Watch commanders may verify a judge's call by using the judge's home or office private line. This list is available in the Watch Commander's Office.

907.6 BAIL

Bail will be accepted on all misdemeanor warrants, which have a specified amount and do not conflict with the provisions of Penal Code §827.1. Bail may be accepted by a sworn officer of any rank, custody officer, public safety assistant, community service officer or records supervisor.

- (a) A copy of the Orange County Bail Schedule is retained in the Watch Commander's Office. It is used to determine bail amounts for charges other than warrants. For bail schedule deviation, the officer shall contact the on-call judge through the detention-release officer at Orange County Jail.
- (b) For misdemeanors not listed in the Orange County Bail Schedule, the bail is \$500.00. The custody officer or other Department employee shall:
 1. Complete Bail Receipt (IPD Form 76-4).
 - (a) If an arrestee is being charged with more than one violation, and the court having jurisdiction is Harbor Court, the bail posted shall be for the charge with the highest bail amount.
 - (b) If an arrestee is being charged with more than one violation, relating to more than one court jurisdiction, separate bail must be posted for each jurisdiction.
 2. Receive any of the acceptable forms of bail, below:
 - (a) Personal Checks:

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1. Must be drawn on a California bank.
 2. Must be pre-printed with depositor's name and address.
 3. Must be made payable to court of issuance.
 4. May not exceed the amount of bail on the warrant.
 5. May not be post-dated.
 6. May not be accepted as bail on a §476(a) PC charge, if the defendant is the depositor.
 7. Depositor must provide satisfactory identification; A California Driver's License is preferred. The CDL number and initials of the person accepting the check shall be written on the check.
 8. The depositor must provide a valid check guarantee card or recognized major credit card.
 9. May not exceed \$2,500.00, unless endorsed by the watch commander.
 10. May not be accepted for charges or warrants from jurisdictions outside Orange County, unless the address of the court can be verified by records.
- (b) Traveler's Checks / Bank Cashier's Check / Money Orders
1. Must be made payable to the court of jurisdiction.
 2. May not exceed amount of bail.
- (c) Cash
- (d) Employees accepting bail bonds shall ensure the following:
1. The bonding agency must be approved by the Orange County Harbor Municipal Court and the agent must sign his/her name and authority to issue.
 2. Only one bond is required for arrestees charged with multiple crimes, if all charges are from one court case. If charges are from more than one court case, each separate court case requires a separate bond.
 3. If the arrestee is charged with a warrant and an additional charge, (two court cases) two separate bonds are required.

907.7 COMPLETION OF BAIL RECEIPT FORM

- (a) Service: Denote whether a walk-in to the Irvine PD or a field contact.
- (b) DR Number: Enter DR # assigned.
- (c) Date/Time: Date/time the receipt is written/the money is received.
- (d) Defendant: Furnish all requested information.

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- (e) Warrant Information:
 - 1. Warrant number cited on warrant.
 - 2. Charge(s) cited on warrant.
 - 3. Amount of bail cited on warrant.
 - 4. Cash, check/money order or bond.
 - 5. Enter total bail.
- (f) Appearance: Check the appropriate court or complete "other" by entering the jurisdiction and the address.
- (g) Depositor: If another individual is posting the bail monies for the defendant, enter the individual's name and address. If the defendant is posting his own bail monies, enter "Self."
 - 1. If the depositor (or defendant) wants the deposited monies to go toward any fine that might be imposed, check the box. By not checking the box, a depositor may get his deposited monies back through court procedures.
 - 2. Have the depositor (or defendant) sign if the box is checked.
- (h) Bail Accepted By: Signature and date. The watch commander shall approve and initial the bail receipt in the "approved" section.

907.8 CERTIFICATION SERVICE

- (a) Orange County Automated/MCAPS Warrants: A "Certification of Service" will be completed for each MCAPS Warrant abstract and affixed to the reverse side of the teletype (abstract).
- (b) Orange County Teletype Abstracts and Foreign Warrant Teletype Abstracts: A "Certification of Service" stamp will be affixed on the reverse side of each Orange County Teletype abstract or Foreign Warrant Teletype abstract, and will be completed by the responsible officer.
- (c) "Certification of Service" Stamp: Communications personnel usually affix certification stamps to the abstracts when abstracts are received, however, the service officer should verify and complete each certification.

907.9 COMPLIANCE WITH PENAL CODE (PC) §§821 & 822 PC

Penal Code §§821 and 822 provides that a person arrested under the authority of an out-of-county warrant has the right to go before a local magistrate for the purposes of setting bail.

- (a) Therefore, if a subject is arrested on an out-of-county warrant and is unable to post bail, the teletype warrant abstract(s) will be stamped with the "CERTIFICATION OF SERVICE", in addition to the "821 and 822 PC" admonishment stamp. This will be done prior to booking at Orange County Jail.

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- (b) "PC §821 & 822 Admonishment Stamp": Records personnel will usually affix certification stamps to the abstracts as they are received by the requesting jurisdiction. However, the service officer should verify and complete each certification.

907.10 RECEIPT AND PROCESSING OF BAIL MONIES

Separate bail monies and separate bail receipts are required for each court jurisdiction. All Department personnel depositing bail into the bail box shall:

- (a) Obtain a "pink," #10 size envelope from the supply placed next to the bail box.
- (b) Write the DR number on the face of the "pink" envelope.
- (c) Place inside the envelope:
 - 1. The bail monies.
 - 2. Warrant(s) and/or Teletype abstract(s) of the warrant.
 - 3. Bond cover sheet;
 - 4. Copy of the Bondsman's identification/license and business card, if applicable.
 - 5. Power of Attorney, if applicable.
 - 6. Canary copy of the bail receipt.
- (d) Seal the envelope, initial the seal and place scotch tape on the initials.
- (e) Write the following on the envelope:
 - 1. Write your name
 - 2. Time / Date
 - 3. DR Number
- (f) The watch commander/field supervisor shall check the accuracy and completeness of the original warrant (the warrant without the sticker on the back), the bond, Power of Attorney, and bail receipt for accuracy and completeness, prior to release of the arrestee.
- (g) Deposit the envelope into the bail box in Records. If you receive cash, the watch commander may put it in the safe. You will be required to notify records of the location of money, by putting a pink envelope in the bail box showing the location of the paperwork and the bail money.
- (h) Distribute the remaining copies as follows:
 - 1. White copy: Forward to the Records Division for inclusion in the Master Case File.
 - 2. Canary colored copy: Place inside the pink bail envelope. The pink envelope is deposited in the Bail Box.
 - 3. Goldenrod colored copy: This is the Depositor's copy (Bail bondsman or other entity making the actual bond payment). If the arrestee is also the Depositor, the arrestee receives this copy.

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4. Pink colored copy: This copy is presented to the arrestee.

907.11 DISCREPANCIES DISCOVERED AFTER DEPOSITING BAIL MONIES IN THE BAIL BOX

Bail monies deposited into the bail box are not accessible once the deposit has been made. Should a Department employee discover an error after the envelope has been placed into the bail box, that employee shall prepare and deposit into the bail box a second pink #10 size envelope denoting the Department Record Number on its face and containing a brief memorandum to the "court clerk," denoting the discrepancy.

907.12 WARRANT ARRESTS

An arrest of a warrant will require a DR number to be issued to that arrest. If the warrant is related to an Irvine case, then the original DR number should be used for booking. If the warrant is for a non-Irvine case, then a new DR number should be issued.

907.13 FAILURE TO APPEAR WARRANTS: CVC 40508A

Persons taken into custody on two or fewer outstanding warrants, for failure to appear on a citation for a parking offense or traffic infraction, shall be provided immediate opportunity to post bail at the station under the following guidelines:

- (a) If the person has sufficient cash or a check in their possession, allow the immediate opportunity to post bail.
- (b) If the person does not have cash or a check, they must be allowed to:
 1. Make not less than three completed telephone calls. All long-distance telephone calls must be made collect.
 2. Have a minimum of three hours in which to arrange bail.

Such persons shall not be booked, photographed, fingerprinted, nor shall an arrest record be made, unless and until all the above opportunities have been expired. Refer to California Vehicle Code (CVC) §40304.5. The arresting officer will document the occurrence in an incident report. The subject shall be referred to as a detainee (involvement code - "DET"), and not an arrestee, in the report.

- (a) This process is time consuming and detracts from field operations. As such, approval from a field supervisor or watch commander is advised prior to warrant service.
- (b) Persons with three or more outstanding warrants for failure to appear on infraction violations may be arrested, processed and ultimately booked at another Jail. The only exception to this is the combined bail amount on the warrants exceeds \$5,000.00 or the warrant is a bench warrant.

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907.14 VEHICLE CODE MISDEMEANOR WARRANTS

Persons with these warrants may be arrested, processed, photographed, fingerprinted and ultimately booked at another lodging facility. The Orange County Jail policy, however, is to immediately release the arrestee on a written Promise to Appear.

Penal Code §827.1 provides that a person who has a warrant of arrest for a misdemeanor offense (non-failure to appear) may be released upon issuance of a Certificate of Release form unless they meet one of the conditions listed in Penal Code §827.1. This course of action should be taken whenever possible, unless there is justification for physical arrest and the arresting officer receives endorsement from a field supervisor or the watch commander.

907.15 MISDEMEANOR WARRANTS: NON-TRAFFIC RELATED

Persons placed under arrest for misdemeanor warrants (non-traffic) may be released immediately upon an issuance of a Certificate of Release, if circumstances permit. These warrants are usually those generated by way of complaint via the District Attorney and the person may in fact not be aware such warrant has been issued. See Penal Code §827.1 for specific limitations. If the person is ineligible for release on a Certificate of Release form, the person may then attempt to make bail from the station.

907.16 FELONY WARRANTS

Persons arrested on felony warrants should be transported to the station for processing, fingerprinting, photographs and interviews, if necessary.

907.17 ARRESTEES WITH MEDICAL CONDITIONS - OCJ/IRC PROTOCOL

Arresting officers should make arrangements to obtain medical attention for arrestees with obvious medical conditions prior to bringing them to the Irvine Police Department or the Orange County Jail (OCJ) Intake Release Center (IRC) for booking. In the event an arrestee is brought to the Intake Release Center, but refused for booking due to medical reasons, the arrestee will need to be taken to a local area hospital to obtain medical treatment. The arresting officer may take the arrestee to a hospital outside the City with the approval of the watch commander/field supervisor. If the arrestee cannot be medically cleared for booking and is admitted to the hospital, the arresting agency will need to maintain physical custody of the arrestee until the arrestee is arraigned (subject to Orange County Jail policy), obtain an Own Recognizance Release, or arrange for bail.

Obtaining an Arrestee's Own Recognizance (OR) Release, Bail, or Bail Increase

Generally, this agency will attempt to secure an OR release for a hospitalized arrestee rather than maintain physical custody until the arraignment. Requests for an OR release will be made to the Pretrial Services Officer (PTSO) (formally known as the DRO), a court official assigned to the IRC. Prior to calling the PTSO the officer should complete and submit an electronic Probable Cause Declaration. If the online, electronic PC Dec system is down, officers or custody personnel will drive the declaration to the IRC along with booking paperwork and complete an absentee booking.

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If an arrestee is not released on his/her own recognizance and cannot be medically cleared for booking, the arresting agency will be required to have bail set prior to the arraignment, preferably as soon as possible after admittance to the hospital. This is done by submitting a package consisting of the Probable Cause Declaration and the booking form or arrest report face page to the PTSO. The cover sheet for the package needs to clearly indicate that this is a hospitalized arrestee and include the officer's name and phone number, along with the hospital name and phone number.

To request an OR release, set bail, request a bail increase or get clarification about any of these processes, call the Pretrial Services Unit at [\(714\) 647-4581](tel:7146474581) or FAX to [\(714\) 647-4815](tel:7146474815).

Submission of Probable Cause Declarations

It is the Department's responsibility to ensure that a Probable Cause Review is conducted by the on-call Duty Magistrate within 48 hours from the time of arrest. This Department sends its Probable Cause Declarations (PC DEC) electronically via the online PC DEC system (<https://portal.iljaoc.org/>). If the electronic PC DEC system is down, the arresting officer must type or handwritten the PC DEC and print a copy for inclusion with the booking paperwork turned in at IRC. It is important to note that the clock does not stop just because the arrestee is in the hospital; the Probable Cause Review still needs to be done within the mandated time frame. The approved electronic PC DEC is maintained on the electronic PC DEC system and in Records.

The Sheriff's Department will require the PC DEC to be electronically submitted if the arrestee is medically cleared for booking at the IRC or if the arresting agency transfers the arrestee to the Jail Ward at Anaheim Global Medical Center prior to arraignment. If the arrestee has been arraigned and the magistrate remands the arrestee into the custody of the Sheriff's Department, we will not need the approved PC DEC.

To schedule a review or get clarification about the Probable Cause Review Process, please call the Pretrial Services Unit at 714-647-4581.

Pre-arraignment Transfers to the Jail Ward at Anaheim Global MC

The Orange County Sheriff's Department maintains a small jail ward at AGMC. If the medical condition of the arrestee can be stabilized to meet the hospital admission guidelines established by Western Medical Center Anaheim Global MC and there is an available bed in the jail ward, then it is possible to transfer custody of the arrestee to the Sheriff's Department prior to the arraignment. To transfer an arrestee from a local area hospital to the custody of the Sheriff at the WMA AGMC Jail Ward, the arresting officer, watch commander or field supervisor should contact the OCJ Inmate Reception Center at [714-647-6040](tel:7146476040) to determine the current practice.

Requesting an emergency exemption to the OCSD Hospital Booking Policy

In certain circumstances emergency conditions could exist in the arresting agency's jurisdiction making it difficult or impossible for the agency to maintain custody of a hospitalized arrestee in addition to managing the emergency. In this type of situation the arresting agency Watch Commander should contact the IRC Watch Commander at [\(714\) 647-6015](tel:7146476015) and request

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assistance. If a mutual agreement can be reached the IRC Watch Commander will make arrangements for the Sheriff's Department to take custody of the arrestee.

The Arraignment Process

The statutory time limit for having a suspect arraigned does not become extended merely because the suspect is in the hospital and cannot go to court. The suspect still needs to be arraigned unless a judge finds cause to postpone the process. Every situation is different and will need to be evaluated by the Orange County District Attorney's Office (OCDA) and the Court to see how it should best be handled.

The protocol that follows is suggested by the IRC:

- (a) Take all of the necessary paperwork needed for a criminal filing to the Harbor OCDA.
- (b) Advise the Deputy DA that the suspect is hospitalized and seek his/her guidance on how to proceed with the arraignment.
- (c) If the OCDA and Court personnel decide to conduct an out of court or "bedside" arraignment, advanced notification to the IRC Receiving Deputy at (714) 647-6040 is necessary (See Transferring Custody of the Arrestee after the Arraignment below).

Contact the Department's court liaison officer or call the office of the Harbor Division District Attorney for clarification on the arraignment process.

Transferring Custody of the Arrestee after the Arraignment

If the arrestee is arraigned in court, the transfer process will be automatic. The judge orders that the arrestee be remanded to custody and the deputy takes custody immediately. If a remand order is issued while the arrestee is still in the hospital, the process is more complicated and requires the following protocol:

- (a) Notify the IRC Receiving Guard Station Deputy at (714) 647-6040 of your intent to schedule an out-of-court arraignment 24 hours in advance, if possible. Have the date, time, and location of the arraignment available. The IRC will make arrangements to have a deputy placed on standby to respond to the hospital if the suspect is remanded.
- (b) Obtain a copy of the Remand Order from the issuing Court official.
- (c) Deliver the booking slip or pre-booking form, a copy of the Remand Order, and the arrestee's personal property to the IRC Receiving Guard Station Deputy. The deputy will receive the arrestee's paperwork, return the officer's copy of the pre-booking form without a booking number, and confirm details about where to send the deputy who will take custody of the arrestee. The deputy will then notify the Theo Lacy Facility to dispatch a transport deputy to the appropriate hospital. When the deputy arrives, he or she will call the IRC and obtain a booking number to give the arresting agency. The deputy will make every effort to relieve the officer at the hospital within 4 hours from the time the booking paperwork is received at the IRC, provided the IRC has had advance notice 24 hours prior. Failure to provide advance notice could result in substantial delays.

To get clarification about the transfer process, contact the IRC Operations Sergeant at (714) 647-6043.

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