

Chambers of
KIRK H. NAKAMURA
PRESIDING JUDGE

Superior Court of California County of Orange

700 CIVIC CENTER DRIVE WEST
SANTA ANA, CA 92701

Superior Court of California County of Orange Emergency Administrative Order for Emergency Bail Reductions and Own Recognizance

ADMINISTRATIVE ORDER NO. 20/10

In light of the State of Emergency declared in the State of California, the Chief Justice's Advisory on COVID-19 and Court Operations, and pursuant to Penal Code section 1270, the Presiding Judge of the Superior Court of California, County of Orange is hereby issuing an administrative order permitting own recognizance release for persons charged with low level misdemeanors, and felony crimes punishable pursuant to Penal Code section 1170(h), not inconsistent with the current PARS Eligibility Guidelines and Orange County Sheriff Department's No Cite and Release policy for warrants, until further notice.

Except for those misdemeanors listed below and those contained in the Orange County Sheriff Department's "Street Bookings Not to be Cited and Released" list, a person arrested or detained for a misdemeanor may be booked and released without being taken into custody, or if taken into custody, shall be released from custody on the person's own recognizance upon a promise in writing to appear in court as required, to obey all laws, and to comply with coronavirus emergency restrictions, including Governor Gavin Newsom's March 19, 2020 Executive Order N-33-20, stay at home order.

I. Misdemeanors violations:

Except for those misdemeanors listed below and those contained in the Orange County Sheriff Department's "Street Bookings Not to be Cited and Released" list, a person arrested or detained for a misdemeanor may be booked and released without being taken into custody, or if taken into custody, shall be released from custody on the person's own recognizance upon a promise in writing to appear in court as required, to obey all laws, and to comply with coronavirus emergency restrictions, including Governor Gavin Newsom's March 19, 2020 Executive Order N-33-20, stay at home order.

- (a) A violation of Penal Code section 136.1 where punishment is imposed pursuant to subdivision (c) of Section 136.1
- (b) A violation of Penal Code sections 262, 273.5, or 422 where the offense is punished as a felony.

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- (c) A violation of Penal Code section 646.9.
- (d) A violation of paragraph (1) of subdivision (e) of Penal Code section 243.
- (e) A violation of Penal Code section 273.6 if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party.
- (f) A person arrested for an offense listed in Penal Code section 290.

A person arrested or detained for the following misdemeanors are NOT eligible for release on own recognizance pursuant to this order:

- (a) A violation of those crimes listed in Penal Code section 1270.1.
- (b) A violation of Penal Code section 136.1 where punishment is imposed pursuant to subdivision (c) of Section 136.1
- (c) A violation of Penal Code sections 262, 273.5, or 422 where the offense is punished as a felony.
- (d) A violation of Penal Code section 646.9.
- (e) A violation of paragraph (1) of subdivision (e) of Penal Code section 243.
- (f) A violation of Penal Code section 273.6 if the detained person made threats to kill or harm, has engaged in violence against, or has gone to the residence or workplace of, the protected party.

II. Felony Violations:

The Pretrial Services Unit (PTSU) will release in-custody defendants from the OC Jail who qualify under the Pretrial Assessment and Release Supervision (PARS) Program eligibility criteria. PARS eligible criteria will include the expansion guidelines implemented in 2018.

PARS Eligibility Guideline:

Defendants charged with felony crime(s) punishable pursuant to Penal Code § 1170(h) absent any of the following exclusions:

Exclusions under Penal Code §1170(h):

- (a) Prior adult conviction(s), juvenile W&I § 707(b) adjudication(s), or present charge(s) for serious or violent felonies as defined in Penal Code § 667.5(c) or Penal Code § 1192.7(c), including an out-of-state felony conviction of a crime that would qualify as a serious or violent felony under California law

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(b) Current or past requirement to register as a sex offender pursuant to Penal Code § 290

(c) Conviction of a felony with sentencing enhancement of aggravated theft as defined in Penal Code § 186.11

(d) Other expressly excluded charge(s)

Exclusion per program guidelines:

(a) ICE hold or under active deportation

(b) Out-of-county felony warrants

Expanded PARS Eligibility Guidelines will Include the following:

Defendant Booked for Non-PC § 1170(h) Charges

- Charge(s) are not serious or violent as defined in Penal Code § 667.5(c) or § 1192.7(c)
- Current charge(s) do not involve firearms, GBI, or sexual assault

Defendants booked for a Penal Code § 1170(h) eligible felony and have a prior serious/violent conviction (strike), must fit following criteria:

- No criminal convictions within the last ten years, including 5 years following supervised release date
- Current charge(s) do not involve firearms, GBI, or sexual assault

Defendants booked for serious/violent felonies and they meet both criteria:

- No prior criminal convictions; and
- Current charge(s) do not involve firearms, GBI, or sexual assault

The following modifications will be made to the Pretrial Services Unit's (PTSU) procedures and processes:

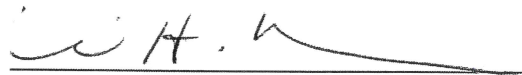
- Own recognizances (O/R) releases under this order will not require On-Call Magistrate (OCM) approval.
- 1275.1 PC bail hearing declaration will not be accepted and presented to judicial officers for review.
- Court appearance dates will be set 90 days from the date of release. If date falls on a weekend/holiday, the date will be the following court day.

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- Magistrate approved declarations to increase bail will exclude defendants from O/R consideration.
- Pretrial Services Officers will have the discretion to contact the appropriate judicial officer for guidance based on a defendant's criminal history.

IT IS SO ORDERED this 27th day of March 2020, at Santa Ana California.

A handwritten signature in black ink, appearing to read "Kirk H. Nakamura", written over a horizontal line.

Kirk H. Nakamura
Presiding Judge