

# EARLY RELEASE FROM CUSTODY IN AN EMERGENCY

## 901.1 EARLY RELEASE FROM CUSTODY IN AN EMERGENCY

Government Code Section 8658 gives the Sheriff the authority to conduct early releases from custody in any case in which an emergency endangering the lives of inmates has occurred or is imminent. The Sheriff shall, if possible, remove the inmates to a safe and convenient place and there confine them as long as may be necessary to avoid the danger, or, if that is not possible, may release them. There is no civil or criminal liability for acts performed pursuant to this law.

## 901.2 CRITERIA FOR EARLY RELEASE

The below listed crimes are used as a guideline when considering early releases from custody under Government Code Section 8658. These guidelines, approved by the Honorable Judge Kirk H. Nakamura as reasonable and non-binding on the Sheriff, were instituted on March 27, 2020 in response to the COVID-19 emergency.

Any deviations from these guidelines will require approval from the Sheriff.

An inmate does not qualify for early release if the inmate has a current arrest or previous conviction for the following crimes:

Crimes under the California Penal Code (CPC)

- (a) A serious felony, as defined in CPC 1192.7(c), or a violent felony, as defined in CPC 667.5(c), but not including a violation of CPC 460(a) residential burglary.
- (b) A violation of CPC 136.1 where punishment is imposed pursuant to CPC 136.1(c), CPC 262, CPC 273.5, or CPC 422 where the offense is punished as a felony, or CPC 646.9.
- (c) A violation of CPC 243(e)(1).
- (d) A violation of CPC 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.

Those offenses of the following crimes that are not listed within the provisions of Penal Code section 667.5 (c) or 1192.7 (c):

- (a) CPC 653f Solicitation to commit murder.
- (b) CPC 245 (a)(4) Felony assault by means of force likely to produce great bodily injury.
- (c) CPC 210.5 False imprisonment.
- (d) CPC 273.5 Felony domestic violence resulting in a traumatic condition.
- (e) CPC 140 Felony use of force or threats against a witness or victim of a crime.
- (f) CPC 148.10 Felony resisting a peace officer and causing death or serious injury.

# Orange County Sheriff-Coroner Department

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- (g) CPC 422.7 Felony hate crime.
- (h) CPC 368(b) Felony elder or dependent adult abuse.
- (i) CPC 289(b), (d), or (e) Sexual penetration.
- (j) CPC 286 (f), (g), or (i) Sodomy.
- (k) CPC 288a Oral copulation.
- (l) CPC 267 Abduction of a minor for purposes of prostitution.
- (m) CPC 236.1 (a), (b), or (c) Human trafficking.
- (n) CPC 273(a)(b) Child abuse.
- (o) CPC 18740 Possessing, exploding, or igniting a destructive device.
- (p) CPC 290 Requirement to register as a sex offender.
- (q) CPC 311.11 Possession of child pornography.
- (r) CPC 273.6 or CPC 273.5 (misdemeanor conviction) Domestic violence.

#### **901.3 EXPLICIT AUTHORITY OF THE SHERIFF**

Only the Sheriff has authority to release under Government Code Section 8658. Only the Sheriff can authorize conditions contrary to this policy. When possible, these conditions will be issued in written memorandum. If that is not possible due to extenuating circumstances, the directive issued by the Sheriff verbally will be documented by the Assistant Sheriff of Custody Operations.