POLICE DEPARTMENT

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M E M O R A N D U M

DATE: July 1st, 2026

TO: All Patrol

FROM: B. Lande, Police Sergeant

SUBJECT: Pre-Arraignment Release Protocol Training

1. Why the Bail Schedule Changed

Effective **July 8, 2026**, the Contra Costa County Pre-Arraignment Release Protocol (PARP) replaces money bail as the default for most low-level, non-violent offenses. This follows **In re Humphrey (2021) 11 Cal.5th 135**, which held that conditioning pre-arraignment release solely on a person's ability to pay is unconstitutional. The court now expects us to release eligible arrestees on the least restrictive condition that reasonably assures their appearance and protects public and victim safety.

Practically, this means **the charge you select now drives whether a person is released at the scene, released after booking, or required to post bail.** Charging accuracy is now a release decision, not just a filing decision.

PERSPECTIVE — WHAT ACTUALLY CHANGED FOR THE AVERAGE OFFICER

There is a lot of noise around PARP. In practice, for day-to-day patrol, **less has changed than the "no cash bail" headline suggests.**

Misdemeanors — essentially unchanged. PC 853.6 already required field citation as the default: for a misdemeanor arrest, you *shall* cite-and-release unless an 853.6(i) exception applies. You were already citing these people out; the bail figure only ever mattered if they were booked. PARP mainly zeroes the bail for those booked exception cases so no one is held pre-arraignment purely on inability to pay. Your routine misdemeanor workflow is largely the same.

Felonies — this is the real change, and it is narrow. PARP creates a $0 field/book release pathway (CR/BR) for felonies, which never had a cite-release mechanism before. But **only about 18 felonies are CR** (vs. 109 BR and 177 BC), and most are document, fraud, and white-collar offenses that come by DA filing or detective case — not street-level patrol arrests. True field cite-release of a felony will be **rare**, clustering around a few codes (10851 chief among

them). Most felony arrests will still resolve as BR, BC, or hold.

Bottom line: Other than the CR designation on a small set of non-violent felonies, not much has changed for the average officer. Put your attention on the felony CR/BR decision and its exceptions — that is where the genuinely new judgment lives.

2. The three release codes

Every offense in the 2026 schedule carries a designation in the **Pre-Arraignment Release Protocol (PARP)** column. There are three release codes, plus an "ineligible" category covered in Section 4.

Code	Meaning	What the officer does	Cash bail?
CR	Cite & Release	Release in the field at the scene; arrestee signs CR-220.	No — $0
BR	Book & Release	Transport and book, then release from the station; arrestee signs CR-220.	No — $0
BC	Bail Condition	Arrestee posts the listed bail amount OR is held until arraignment.	Yes — listed amount

Key point: The PARP code — not whether the crime is a felony or misdemeanor — governs the field decision. Some felonies are BR (released after booking); some minor-sounding offenses are BC. **Always read the code from the schedule line.**

The dollar figure printed next to a CR or BR offense is **not** collected on a normal $0 release. It is the fallback amount a magistrate uses only if an exception or deviation moves the person out of $0.

3. Which form: Notice to Appear vs. CR-220

Every $0 release requires a signed promise to appear, but **the form depends on whether the offense is a misdemeanor or a felony**:

- **Misdemeanor $0 release (CR or BR):** complete a **Notice to Appear** (the PC 853.6 field citation). The arrestee signs the NTA as the promise to appear.

- **Felony $0 release (CR or BR):** complete the **Own-Recognizance Release Agreement (Local Form CR-220, PC 1318)**. The CR-220 is the felony O.R. instrument.

Either way, the signed form is emailed to the court within **48 hours** of release, to **ORagreements@contracosta.courts.ca.gov**. The CR-220 carries the O.R. conditions — extradition waiver, no-leaving-California condition, revocation acknowledgment, and the PC 1320 failure-to-appear warnings — and now also includes Early Representation Program contact information for the arrestee.

Who completes it: On a CR release the arresting officer completes the CR-220 in the field. On a BR release the arresting officer completes the CR-220 with the exception of the booking number and the court date; Sheriff's Office intake deputies fill in those two fields. This mirrors KPD's existing misdemeanor book-and-release practice, where the officer completes the citation except for the court date.

Court date: Arraignment dates for both felonies and misdemeanors are set **90 days out** to allow time for DA filing and filing review. For a CR (field) release, the officer sets the appearance date on the form; for a BR release, Sheriff's Office intake deputies assign the court date (and booking number) at intake.

Signatures: The court accepts both **wet (ink) and digital signatures** on the CR-220, consistent with KPD's existing electronic-citation workflow. A tablet-captured signature on the PDF is acceptable.

4. The decision sequence — run this in order

Work top to bottom. Stop at the first rule that fires.

1. **Pull every charge's schedule line.** Note the PARP code and check for an asterisk (*).
2. **Ineligibility check.** Capital crimes, PC 1270.1 offenses (violent per 667.5(c); serious per 1192.7(c); and 136.1(c), 243(e)(1), 273.5, 422 felony, 646.9, qualifying 273.6), or Cal. Const. art. I §12(b)-(c) → NOT eligible for $0. Hold to arraignment.
3. **Enhancement check.** Any sentencing enhancement under PC 1269b(e) → bail condition required; no $0 release.
4. **Multiple-charge rule.** If charges carry different codes, the STRICTEST governs: BC beats BR beats CR. No bail conditions may be added onto a CR/BR charge.
5. **Exception check.** Felony probation / parole / PRCS / MSUP; more than two FTAs in 12 months; or (misdemeanor) a PC 853.6(i) exception → cash bail at the listed amount.
6. **Asterisk check.** An asterisked offense requires judicial review before release — route to the magistrate even if the code looks releasable.
7. **If none fired:** release at $0 — in the field (CR) or after booking (BR). Misdemeanor → signed Notice to Appear; felony → signed CR-220. Route to the court within 48 hours.

Exceptions and overrides at a glance

Trigger	Effect on a CR/BR offense	Officer action
On felony probation, parole, PRCS, or MSUP at time of arrest	Becomes cash bail for the NEW offense only; no action on the supervision case	Post listed bail / document status
More than two (2) FTAs for any criminal case in the prior 12 months	Becomes a bail condition for the new offense	Articulate basis in PC declaration; magistrate reviews
(Misdemeanor only) a PC 853.6(i) exception exists	Becomes cash bail; unlisted misdo presumptive $250	State the 853.6(i) basis in PC declaration
Any sentencing enhancement (PC 1269b(e)) charged	Knocks the offense out of $0; bail condition required	Post enhanced amount or hold

Trigger	Effect on a CR/BR offense	Officer action
Asterisk (*) next to the offense on the schedule	Requires judicial review before release	Route to magistrate before releasing
PC 1270.1 / capital / Cal. Const. art. I §12(b)-(c)	Ineligible for $0; held to open-court hearing	Hold to arraignment; post listed bail only after hearing

5. Why the charge — not the conduct label — controls

The protocol releases people based on the offense charged. If the charge does not match the conduct, the release outcome will be wrong. The clearest example: **resisting an officer.**

PC 148(a)(1) is the non-violent obstruction statute — delaying, resisting without force, refusing to comply, walking away. It does not allege any physical attack, and the schedule correctly designates it **CR** ($0 field release). If a suspect actually uses force against an officer, 148(a)(1) is the wrong charge. The conduct belongs in a different section — and those sections are BC:

Same facts — suspect resists/fights officer	Charge	PARP	Outcome
Verbal non-compliance / delay only; no force used	**148(a)(1)**	**CR**	Field cite & release at $0
Suspect physically resists by force or threatens officer	**69**	**BC**	Cash bail $5,000 (misdo) / hold
Suspect strikes / batters the officer	**243(b)**	**BC**	Cash bail $5,000; not a $0 release
Battery causing serious bodily injury	**243(d)**	**BC/S**	Serious felony; held to arraignment

Takeaway: The same incident, charged three ways, produces three different custody outcomes. Write the charge that fits the facts in your narrative. Undercharging a use-of-force-against-officer event as 148(a)(1) now releases that person at the scene.

6. Worked scenarios

A. Misdemeanor 496 (receiving stolen property), clean record

Schedule: **CR**. Cite and release in the field on a **Notice to Appear** (misdemeanor); route to court within 48 hours.

B. Felony 496, clean record

Schedule: **BR**, $20,000. Transport, book, then release on the CR-220. The $20,000 is not collected.

C. Felony 496, subject on felony probation

Probation exception fires. The $0 release is off — subject must post **$20,000** for the new offense or be held. Do not act on the probation case; that is for probation or the DA to file a revocation petition. Document supervision status in the PC declaration.

D. Misdemeanor 496 + 3 FTAs in the past 12 months

More-than-two-FTA exception fires → cash bail ($2,500). Articulate the basis for the FTA count in your PC declaration; a magistrate reviews it and may restore CR if the basis is insufficient.

E. Mixed charges: misdo 496 (CR) + felony 460(b) burglary (BR)

Strictest-designation rule → the booking is governed by **BR**. Book then release on the CR-220 (absent any other exception).

F. Mixed charges: 496 + felony 273.5(a) corporal injury (BC, PC 1270.1)

273.5 is BC and a listed PC 1270.1 offense → **no pre-arraignment $0 release at all.** Post the listed bail or hold to an open-court hearing. No conditions are stacked onto the 496.

7. Stacking bail across multiple charges (PC 654)

When an arrestee is booked on multiple BC offenses, the bail is **not** always the sum of every charge. **Penal Code section 654** limits multiple punishment — and therefore limits stacking — when the offenses arise from a single act and objective. The rule:

- **Single act / one victim / 654 applies:** bail is set using **only the highest applicable offense plus any applicable enhancement.** Do not add up the other charges.
- **654 does NOT apply (stacking allowed):** when offenses are against **separate victims**, occur on **separate dates or occasions**, are **separate punishable acts** (including separate sex acts), or are offenses against the People of the State. Enhancement and prior-conviction amounts are added **once only** per arrestee.

Example 1 — stacking allowed (separate punishable acts)

A convicted felon commits a **robbery while armed with a firearm**, but the victim is unaware the suspect is armed. On arrest the officer finds the firearm. The **robbery (211)** and the **felon-in-possession (29800)** are separately punishable — the possession is not incidental to the robbery's single objective — so **bail may be stacked** for both offenses.

Example 2 — 654 applies (cap at the highest single offense)

An armed robbery in which the suspect strikes the victim in the head with the firearm, causing loss of an eye. The conduct yields **211 (robbery), 29800 (felon in possession), 245 (ADW), and 203 (mayhem).** Because these arise from a **single course of conduct with one objective against one victim**, PC 654 applies: bail is set on the **highest single applicable offense plus any enhancement**, not by stacking each charge.

Why enhancements matter here: Because 654 can prevent raising bail by stacking charges, enhancements are how aggravating factors still reach the custody decision. Common ones in the schedule's Enhancements section: personal use/discharge of a firearm (12022.5), use of a deadly weapon (12022(b)), new felony while on release (12022.1), great bodily injury (12022.7(a)), and strike priors (667). Check the Enhancements section on every multi-charge or weapon/injury booking.

8. If the subject refuses to sign (NTA or CR-220)

The signature is the consideration for release. Under **PC 1318** (felony O.R.) and **PC 853.6** (misdemeanor NTA), release requires the signed promise to appear — no signature, no agreement, no $0 release. The court has confirmed that **PC 1318 gives officers authority to arrest and book a felony arrestee who refuses to sign the CR-220.** The subject is then **held and brought before a magistrate**, who addresses release at arraignment. Per Court Administration: an arrestee who refuses to execute the required Own-Recognizance Release Agreement shall not be released under the CR or BR protocol and is subject to booking and retention in custody until execution of the agreement, arraignment, or other lawful release.

- Refusing to sign is **not** itself a new crime; it only forecloses the release path.
- Do **not** coerce a signature. The remedy is custody-to-arraignment.
- **Document** that release was offered and declined, so the custody decision is clearly tied to the refusal and not a discretionary detention (Humphrey paper trail).
- Refusal to sign the NTA / demand to be taken before a magistrate is itself an enumerated **853.6(i)(8)** non-release reason for misdemeanors. For felonies, PC 1318 supplies the arrest/book authority (above).

▶ **Felony booking decision → use the deviation process, not 853.6(i).** PC 853.6(i) applies only to misdemeanors. Do not use the 853.6(i) factors as the basis for booking a citable (CR/BR) felony. For a felony you believe should not be released at $0, the correct path is the bail deviation process (Section 9): a sworn declaration to the duty magistrate requesting that the CR/BR protocol be elevated. The magistrate — not the officer's reading of 853.6(i) — makes the call.

One indirect exception via the multiple-charge rule: 853.6(i) can still reach a felony arrest through a co-charged misdemeanor. If a person is arrested for a felony CR offense (e.g., 10851 VC) *and* a misdemeanor CR offense, and an 853.6(i) exception applies to the misdemeanor, that misdemeanor elevates to BC — and under the strictest-protocol rule the entire arrest elevates to BC.

9. Understanding deviations

A **deviation** is a formal request from an officer to a duty magistrate to release an arrestee under terms **different from what the bail schedule prescribes.** It is the release valve for cases where the schedule's default does not fit the specific arrestee. The authority is **Penal Code § 1269c**, and it applies to persons arrested **without a warrant and not yet arraigned** — the same pre-arraignment window PARP governs. (If there is an arrest warrant, the magistrate already set terms on it, so 1269c does not apply.)

A deviation can run in either direction — a request to **increase/elevate** (a more restrictive outcome) or to **decrease/reduce** (a lower amount or a release). Officer-initiated

deviations are almost always requests to elevate, because § 1269c's stated trigger is a peace officer's **reasonable cause to believe the scheduled bail is insufficient** to ensure the defendant's appearance or to protect a victim (or a victim's family), particularly in domestic-violence cases.

Two deviation paths

The submission mechanics are identical; what differs is *what you are asking the magistrate to change.*

- **BC offenses (a bail condition already applies):** ask the magistrate to set the money bail higher or lower than the scheduled dollar amount, or to set different conditions.
- **CR or BR offenses (the $0 release protocols):** because there is no dollar amount to move, the request is to **elevate (or lower) the release protocol itself** — e.g., converting a CR/BR $0 release into a hold or a bail condition. Important: requesting a deviation on a CR/BR offense **automatically refers the arrestee to a magistrate for review** — that person is no longer auto-released.

When to seek a deviation

The standard is **reasonable cause to believe the scheduled outcome is insufficient** to (a) ensure the defendant returns to court, or (b) protect a victim or a victim's family. Typical examples: a $0 CR/BR designation where the facts show a genuine flight risk or a specific, ongoing danger to an identifiable victim; a domestic-violence arrestee whose scheduled bail seems too low given threats, escalation, or access to the victim (§ 1269c names DV victim protection specifically). The officer cannot simply decide to hold the person — the deviation routes the decision to a magistrate. The officer makes the articulated request; the magistrate rules.

Working through a deviation — step by step

1. **Decide at the time of booking.** The schedule requires the request be made at booking — not after the fact.
2. **Write a declaration under penalty of perjury.** Set forth the specific facts and circumstances supporting your belief that the scheduled bail/protocol is insufficient. This is an articulation standard — facts, not conclusions. "Suspect made three specific threats to locate and harm the victim after release, knows her work address, and has a prior FTA" is a declaration; "seems dangerous" is not. Attach a proposed order for the magistrate to sign.
3. **Name what you are asking for.** BC offense → the specific higher/lower dollar amount. CR/BR offense → that the protocol be elevated (e.g., to a hold or bail condition), which refers the arrestee to the magistrate for review.
4. **Submit electronically to the duty magistrate.** Email the declaration and proposed order as a PDF to **SWarrants@contracosta.court.ca.gov**, using the required filename format **Agency+Date+Time+Request to Deviate.PDF** (e.g., "KPD Jul 8 2026 8:00pm Request to Deviate.PDF").

5. **Notify the duty judge that the request is coming.** The email alone is not enough. During court hours, call Court Administration at (925) 608-2700 to notify the daytime duty judge. After hours, have Sheriff's dispatch call the duty judge.
6. **The magistrate rules and returns the signed order.** The duty judge approves or denies, signs, and returns the order. The magistrate's decision controls the arrestee's release/custody status.
7. **Close the loop in your paperwork.** Note the request and the approval/denial in your PC declaration/report (date, time, judge), and attach the signed deviation order to your report so the DA has it in the filing packet.

In one sentence: A deviation is the officer telling a magistrate, under oath, that the schedule's default is wrong for this specific person and why — it does not let the officer override the schedule unilaterally; it triggers a magistrate's review.

Address note: The deviation inbox (SWarrants@contracosta.courts.ca.gov is a different address from the O.R.-agreement inbox (ORagreements@contracosta.courts.ca.gov. They are two inboxes for two purposes.

10. Reference: PC 853.6(i) — reasons to NOT cite-and-release

PC 853.6 is the default cite-and-release statute for misdemeanors: when a person is arrested for a misdemeanor and does not demand to be taken before a magistrate, the officer **shall** release them on a written notice to appear — **unless** one of the reasons below applies. These are the "853.6(i) exceptions" the bail schedule refers to. If one applies to a CR/BR offense, the person may be held and a cash bail condition attached; the officer must record which reason on the agency form and articulate the basis in the PC declaration.

§	Reason an officer may decline to cite-and-release
(i)(1)	Arrestee was so intoxicated they could be a danger to themselves or others.
(i)(2)	Arrestee required medical examination or care, or was otherwise unable to care for their own safety.
(i)(3)	Arrested under a circumstance listed in Vehicle Code §§ 40302 or 40303.
(i)(4)	One or more outstanding arrest warrants for the person.
(i)(5)	Could not provide satisfactory evidence of personal identification.
(i)(6)	Immediate release would jeopardize prosecution of this or any other offense.

§	Reason an officer may decline to cite-and-release
(i)(7)	Reasonable likelihood the offense would continue or resume, or that the safety of persons or property would be imminently endangered by release.
(i)(8)	Arrestee demanded to be taken before a magistrate, OR refused to sign the notice to appear.
(i)(9)	Reason to believe the person would not appear as specified — basis must be specifically stated.
(i)(10)	The person was subject to PC 1270.1 (see Section 11).
(i)(11)	Cited, arrested, or convicted for misdemeanor or felony theft from a store in the previous six months.
(i)(12)	Probable cause to believe the person committed organized retail theft (PC 490.4(a)).

Note: Items (i)(11) and (i)(12) are the retail-theft non-release reasons added by recent amendment (AB 2943). Domestic-violence protective-order arrests are governed separately by 853.6(a)(2) and the 1270.1 carve-outs in 853.6(a)(3) — those are NOT cite-releasable. List current through the 2024 amendment; verify before relying on it.

11. Reference: PC 1270.1 — offenses ineligible for $0 / requiring an open-court hearing

PC 1270.1 prohibits releasing an arrestee on O.R. or on a bail amount different from the schedule **until a hearing is held in open court** before a magistrate. These offenses are never a pre-arraignment $0 release. The statute reaches four groups:

- **Violent felonies** listed in **PC 667.5(c)** (but not 460(a) residential burglary for this purpose).
- **Serious felonies** listed in **PC 1192.7(c)** (including those in PC 1192.8).
- Specific sections: **PC 136.1(c)** (witness intimidation by force/threat), **243(e)(1)** (domestic battery), **273.5** (corporal injury), **422 as a felony** (criminal threats), and **646.9** (stalking).
- **PC 273.6** (violating a protective order) **if** the person made threats to kill or harm, engaged in violence against, or went to the residence or workplace of the protected party.

PC 667.5(c) — "violent felonies" (operative categories)

The full statute enumerates 20-plus categories; the ones officers encounter most often are below. When in doubt, treat a serious-injury or weapon felony as potentially qualifying and check the statute or consult a supervisor.

- Murder, attempted murder, voluntary manslaughter; mayhem.
- Forcible/aggravated sex offenses (rape, sodomy, oral copulation, sexual penetration as specified; lewd acts on a child under 14; continuous sexual abuse).
- Robbery; carjacking; kidnapping; extortion or criminal threats for the benefit of a street gang.
- Any felony in which the defendant personally inflicted great bodily injury (except on a peace officer as specified); any felony in which a firearm was personally used.
- Arson (PC 451(a)/(b)); first-degree residential burglary with another person present; assault with intent to commit a specified felony (PC 220); assault with a firearm on a peace officer/firefighter.
- Threats/use of destructive devices or explosives; weapons of mass destruction; any felony punishable by death or life imprisonment.

PC 1192.7(c) — "serious felonies" (operative categories)

The serious-felony list overlaps the violent list but is broader. Most often relevant:

- Any felony where the defendant **personally inflicted great bodily injury** on a non-accomplice, or **personally used a firearm** or a **dangerous or deadly weapon**.
- Murder/attempted murder, the forcible sex offenses, mayhem, robbery, carjacking, kidnapping, arson, and the burglary/explosive categories above.
- Criminal threats (PC 422); assault with a deadly weapon or with intent to commit robbery/specified felonies; any attempt, conspiracy, or solicitation to commit a listed offense.

Practical rule of thumb: If the felony involves death or attempted killing, a forcible sex act, a firearm or deadly weapon personally used, great bodily injury personally inflicted, robbery/carjacking/kidnapping, or a gang/explosive enhancement — assume it is 1270.1 territory and NOT a $0 release. The two full lists (667.5(c) and 1192.7(c)) are long and are amended periodically; this memo summarizes the operative categories only. Confirm the exact current enumeration before relying on it in a close case.

12. Quick field checklist

- ☐ Read the PARP code for every charge; note any asterisk.
- ☐ Ineligible (1270.1 / capital / art. I §12)? → hold.
- ☐ Enhancement charged? → BC, no $0.
- ☐ Multiple charges? → strictest code governs.
- ☐ Probation/parole/PRCS/MSUP, 2+ FTAs, or 853.6(i)? → cash bail.
- ☐ None of the above? → release CR (field) or BR (after booking).

- ☐ Every $0 release: misdo → NTA, felony → CR-220 → court within 48 hours.
- ☐ Charge that fits the facts — the charge is now a release decision.