

2-13/010.00 Removal Orders (Penal Code, 4004)

Inmates committed to the County Jail for examination or upon conviction for a public offense, must be confined in the County Jail until they are legally discharged. During the pendency of a criminal proceeding, the Superior Court may make a legal order for good cause, for the removal of an inmate in the custody of the Sheriff. After conviction, only the Superior Court may make a legal order for good cause for the removal of an inmate.

For inmates who are remanded to the custody of the Sheriff pending arraignment and preliminary hearing, 4004 P.C. would only apply after arraignment. Prior to this, the court has no jurisdiction regarding removal; however, if the inmate has been arraigned on another charge, a legal removal order would be necessary from the committing Superior Court. Exceptions to pre-arraignment may be to visit a critically ill family member or attend a funeral, etc.

The conviction of an inmate is complete, once the clerk has read the verdict and the judge has accepted the finding. The court maintains jurisdiction, and 4004 P.C. still applies until sentencing has been completed and the court relinquishes control.

If probation is part of the sentence, the court retains jurisdiction during commitment to the County Jail. An arrest with a warrant is not a proceeding that brings the provisions of 4004 P.C. into effect; the inmate must first be arraigned on the warrant. If a complaint has been filed but the inmate has not been arraigned, it is not necessary to obtain a removal order.

Juvenile offenders are committed to the custody of the Probation Department, and any removal order shall be coordinated through that department.

No member of this Department shall remove an inmate committed to the County Jail System during that time when 4004 P.C. is in effect, except in compliance with a legal removal order. The County Jail System includes all Custody Division Facilities, Court Services lockup facilities and all station facilities.

Notwithstanding, State and Federal agencies are not to be restricted in the removal of their prisoners, provided this Department has no jurisdiction.
