6-04/020.40 Promise to Appear

The court may specify in the warrant that the person to be arrested can be released on a promise to appear. The procedures for release on a promise to appear are unlike those used for a misdemeanor under PC 853.6: (1) there are fewer reasons for non-release, and (2) the contents, filing protocols and form of the promise to appear are different from the form used for a PC 853.6 release. CCP 1993(b)(11); CCP 1993.1

CCP 1993 (cited in part) (b) The warrant shall contain

1. A statement indicating whether the person may be released upon a promise to appear as provided by Section 1993.1. The court shall permit release upon a promise to appear, unless it makes a written finding that the urgency and materiality of the person's appearance in court precludes use of the promise to appear process.
2. The date and time to appear in court if arrested and released pursuant to paragraph (11).

CCP 1993.1

a. If authorized by the court as provided by paragraph (11) of subdivision (b) of Section 1993, the sheriff may release the person arrested upon his or her promise to appear as provided in this section.
b. The sheriff shall prepare in duplicate a written notice to appear in court, containing the title of the case, case number, name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court. In addition, the notice shall advise the person arrested of the provisions of Section 1992.
c. The date and time specified in the notice to appear in court shall be that determined by the issuing court pursuant to paragraph (12) of subdivision (b) of Section 1993.
d. The sheriff shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, shall give his or her written promise to appear in court as specified in the notice by signing the duplicate notice, which shall be retained by the sheriff, and the sheriff may require the arrested person, if he or she has no satisfactory identification, to place a right thumbprint, or a left thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the notice to appear. Except for law enforcement purposes relating to the identity of the arrestee, no person or entity may sell, give away, allow the distribution of, include in a database, or create a database with, this print. Upon the signing of the duplicate notice, the arresting officer shall immediately release the person arrested from custody.
e. The sheriff shall, as soon as practicable, file the original notice with the issuing court. The notice may be electronically transmitted to the court.
f. The person arrested shall be released unless one of the following is a reason for non-release, in which case the arresting officer either may release the person or shall indicate, on a form to be established by his or her employing law enforcement agency, which of the following was a reason for the non-release:
    1. The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others.
    2. The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety.
    3. There were one or more additional outstanding arrest warrants for the person.

4. The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.