

Superior Court of California, County of Inyo	FOR COURT USE ONLY
<input type="checkbox"/> 301 West Line Street Bishop, CA 93514 <input type="checkbox"/> 168 North Edwards Street P.O. Drawer U Independence, CA 93526	
THE PEOPLE OF THE STATE OF CALIFORNIA      vs.  DEFENDANT: _____	
<b>FLASH INCARCERATION WAIVER AND AGREEMENT (PENAL CODE § 1203.35)</b>	Case Number: _____

I have been advised and understand that in connection with the above-entitled case, I am being granted formal probation, or that my sentence includes a split-sentence with mandatory supervision by the Inyo County Probation Department.

I understand that California Penal Code § 1203.35 provides for possible “flash incarcerations” of up to ten (10) consecutive days in jail for each alleged violation of the terms and conditions of my probation or mandatory supervision, if at the time of granting probation or ordering mandatory supervision, the court obtains my “...waiver to a court hearing prior to the imposition of a period of flash incarceration.” I understand that I cannot be denied probation based on my refusal to waive my rights and agree to “flash incarcerations.”

I understand that even though I am signing this waiver and agreement, I still have the right to refuse to accept any flash incarceration recommended by the Probation Officer, and exercise my due process rights; including, but not necessarily limited to, notice of the alleged violation(s) by the filing of a Probation or Mandatory Supervision Violation Complaint, representation by an attorney (including appointed counsel), my right to a hearing and require the prosecution to prove that I willfully violated a lawfully imposed term and condition of probation or mandatory supervision, to confront and cross-examine the witnesses against me, to produce evidence in my own defense, including using the subpoena powers of the court (without cost to me) to produce evidence and the attendance of witnesses, and to exercise my constitutional right against self-incrimination, or to remain silent. I also understand that failure to accept a recommended period of flash incarceration may result in the filing of a formal revocation petition with the court.

I do hereby freely and voluntarily agree to “flash incarceration;” and in doing so, understand and agree that I am waiving or giving up the following rights:

- To be represented by an attorney;
- To have a hearing in court and have the court determine whether the prosecution has proven that I willfully violated a term of my probation or supervision;
- To confront and cross-examine the witnesses against me;
- To present my own defense, and without cost to me, to use the subpoena power of the court to assist me in producing evidence and the attendance of witnesses in court;
- To remain silent - I understand that I am waiving or giving up my right against self-incrimination; and,
- I also acknowledge that a term of “flash incarceration,” up to 10 consecutive days, is not reduced by custody credits (“good time/work time”).

Dated: \_\_\_\_\_

\_\_\_\_\_  
Defendant’s Signature

ATTORNEY'S STATEMENT

I am the attorney of record for the Defendant in the above-entitled action. I have reviewed this "Flash Incarceration Waiver and Agreement (PC § 1203.35)" form with my client. I have explained each of the rights to my client that he/she has and will be waiving by signing this document. I have answered all of the Defendant's questions regarding this waiver and agreement. I concur in the Defendant's decision to waive his or her rights and agree to flash incarceration as provided by Penal Code § 1203.35.

Dated: \_\_\_\_\_

INTERPRETER'S STATEMENT

I, having been sworn or having a written oath on file, certify that I am a certified interpreter, and truly translated this form to the Defendant in the language indicated below. The Defendant stated that he/she understood the contents of the form, and then he/she signed the form.

Language:  Spanish  Other: (specify): \_\_\_\_\_

Dated: \_\_\_\_\_

COURT'S FINDINGS AND ORDER

The Court, has reviewed this "Flash Incarceration Waiver and Agreement," and having questioned the Defendant concerning the same, finds that the Defendant understands the provisions of the waiver and agreement. The Court further finds that the Defendant has freely and voluntarily waived the rights set forth above and agreed to flash incarceration under Penal Code § 1203.35, with a knowing and intelligent understanding of the rights that he/she is waiving, and the consequences thereof. The Waiver and Agreement is accepted and ordered filed.

Dated: \_\_\_\_\_  
Judge of the Superior Court

Distributed to the following on (date) \_\_\_\_\_:  Inyo County Probation Department;  Inyo County District Attorney's Office;  Defense Counsel.