

VENTURA COUNTY PROBATION AGENCY PRE-TRIAL SUPERVISED RELEASE PROGRAM

PROPOSAL

The Pre-Trial Supervised Release Program (PTSRP) is a pilot program proposed by the Ventura County Probation Agency. The program will operate out of existing Probation Agency facilities located at the Government Center Pre-Trial Detention Facility (PTDF), with offender supervision provided as part of the Work Furlough building in Camarillo or the adjacent Probation Agency Staff Training Center.

It is proposed that this program operate in compliance with Release Standards and Recommended Procedures developed by the California Association of Pre-Trial Services (CAPS). According to California law (Penal code Section 1270), a person arrested for a non-capital offense is entitled to be considered for an O.R. release and may be released by a "court magistrate." California law (Penal Code Section 1318.1) authorizes a court, with the concurrence of the Board of Supervisors, to employ an investigative staff for the purpose of preparing investigative reports for the courts to be used to determine a defendant's eligibility to be released on his or her own recognizance. The CAPS Release Standards and Recommended Procedures are attached to this proposal.

PROBATION AGENCY ADULT MASTER PLAN

In August 2008, the Probation Agency, working with Criminal Justice Consultants, Crout and Sida, completed an Adult Services Master Plan. The planning process for the Master Plan involved convening an Executive Steering Committee consisting of key stakeholders that identified needs before a final report was approved. Amongst other findings, the Adult Master Plan concluded that, *"While Ventura County Probation has a variety of adult programs available for its clients, program alternatives and advancing technologies successfully deployed elsewhere should be considered for implementation. Electronic monitoring, with or without GPS tracking for pre-trial release or as a punishment sanction in conjunction with house arrest, day reporting programs providing GPS, job preparation, and social development classes, in-custody drug and alcohol programming, mental health medication monitoring, and other programs have proven effective in deterring criminal behavior and providing for public safety when deployed appropriately."*

The Adult Master Plan recommended the expansion/modification of several existing programs and the addition of new programming to fill the identified gaps and to prepare the Agency for future growth and development. Two of the final recommendations included in this report are:

- A. Institute a Day Reporting Program (DRP) center as an alternative to jail for low and medium risk offenders convicted of a variety of offenses..." It is noted that*

the Probation Agency has a Day Reporting Proposal that was developed subsequent to the Adult Master Plan that is currently under review.

- B. Develop an Adult Electronic Monitoring/GPS Monitoring Program, as another intermediate sanction which can be deployed for pre-trial and sentenced inmates and/or as an adjunct to other community corrections programs, or as a stand alone sanction. The report concludes that there is a wide variety of technology available for electronic surveillance options.*

Given the recommendations as outlined above, the development of a Pre-Trial Supervised Release Program utilizing Electronic Monitoring and GPS technology is consistent with the Probation Agency's Adult Master Plan. The goal of keeping the Probation Agency's adult programming alternatives consistent with the advancing technologies successfully deployed in other jurisdictions as both an appropriate sanction and to lower the County's cost of incarcerating defendants that can be released and monitored in the community can be achieved without impacting public safety.

PROGRAM DESCRIPTION

The Adult Investigations Units of the Probation Agency currently investigate and complete pre-sentence probation reports on adult offenders. It is proposed that a new unit be developed to allow for a pre-trial investigation of defendants who may be appropriate for a Pre-Trial Supervised Release Program. The criteria for supervised O.R. release will be as follows:

- Defendants must be charged by the District Attorney's office with a felony. (There may be some exceptions for misdemeanants that are going to trial and have no ability to post bail).
- Defendants cannot be released any other way as regular unsupervised O.R. or bail.
- Defendants can only be released on the recommendation of the Pre-Trial Supervised Release Program, with the order of the Court.
- Defendants must reside in Ventura County or close vicinity and have a residence.

It is proposed that the pre-trial investigation report include the circumstances of pending case(s), prior criminal and delinquency history, residency, employment, family information, references, current and/or former performance on probation/parole, and a risk assessment. The pre-trial investigating probation officer would then prepare a written release or non-release recommendation which the Court would consider in making a decision to either release, adjust bail, or keep a defendant in custody while

awaiting trial. Along with the release recommendation and before arriving at a release decision, the Court would also evaluate flight risk and community safety.

If the Court determines that release is warranted, participants will be ordered released to the Probation Agency's Pre-Trial Supervised Release Program, with terms of release including conditions that the participants obey all laws, attend all future court appearances, and follow specific court ordered conditions, including electronic monitoring. Additional terms such as drug and alcohol testing will be included on a case-by-case basis as indicated through the pre-release investigation. Participants under Pre-Trial supervision will be monitored by the probation officer.

In the case of defendants who are released to the Pre-Trial Supervised Release Program, the probation officer will keep the Courts informed regarding compliance and recommend appropriate Court action when appropriate. The defendant's pre-trial compliance will also be evaluated and included in the defendant's pre-sentence investigation report.

PARTICIPATION REQUIREMENTS

- Participants must agree to program supervision requirements, agree to wear a monitoring device, when applicable, and pay an administrative fee, as well as a daily fee.
- Participants must have a residence and be a resident of Ventura County or live within approved boundaries.
- Participants who operate a vehicle must have proof of a valid driver's license and insurance.
- Participants may not pose a threat to the community and/or victim as determined by the Probation Agency.
- Participants must not have a CDC/CRC/DJJ, Border Patrol, or other jurisdiction hold.
- Participants must be legally eligible to work in the United States.
- Participants may not be pending any charges in any jurisdiction, other than the matter(s) that resulted in commitment to the PTSRP.

CONTRACT

All Pre-Trial Supervised Release Program participants will be required to sign a contract that specifies the requirements of program participation. Participants who have the ability to pay will be assessed any fees associated with monitoring and will be advised that if they fail to comply with program requirements and pay fees they will be returned

to court. A sample Pre-Trial Supervision Contract and an Electronic Monitoring Contract is attached.

RISK ASSESSMENT

In making the determination regarding recommending a defendant for the Pre-Trial Supervised Release Program, the Probation Agency will administer a risk assessment tool. While there are a variety of risk assessments available, it is proposed that the Virginia Model Risk Assessment screening document be utilized. This screening tool was developed by the State of Virginia Criminal Sentencing Commission and has proven to be an effective tool for identifying non-violent offenders that are good candidates for diversion from incarceration. Identified risk factors include:

- Felonies [as the most serious charge(s)].
- Whether other pending charges existed at the time of arrest.
- Outstanding warrants that existed in another locality unrelated to the current arrest.
- Adult criminal history that includes at least one misdemeanor or felony conviction.
- Two or more failure to appear convictions as an adult.
- Length at current residence (less than one year).
- Not employed continuously for the past two years and was not a primary child caregiver at the time of arrest.
- History of drug abuse.

This assessment is an objective research-based instrument currently being utilized by other jurisdictions in California. A sample of this assessment is attached.

NEEDS ASSESSMENT

While it is proposed that the above tool be used to assess risk and identify appropriate participants, the tool does not identify a defendant's need for services and programming. As part of the Pre-Trial Supervised Release Program, the Probation Agency will interview all participants and identify the need for services, including drug and alcohol counseling, AA/NA meetings, Public Health classes, job, career, and financial counseling, literacy and GED services, as well as other counseling services and resources that are available in the community.

MONITORING

Electronic Monitoring Provider/Fees: Behavioral Interventions (BI) Incorporated currently provides electronic monitoring and GPS monitoring for the Probation Agency's adult and juvenile offenders under court-ordered supervision. The Pre-Trial Supervised Release Program will be able to operate using these contract services.

BI offers a wide range of monitoring options and associated fees, including Electronic Monitoring (Home Supervision), GPS monitoring to include zones of inclusion or exclusion in the community, and GPS monitoring with alcohol monitoring. Offenders who have the ability to pay monitoring fees will be required to pay an initial administrative fee as well as a daily fee. Typical fees range from \$2.40/day for a home-based Electronic Monitoring device to \$7.43/day for a GPS monitoring device. The Probation Agency would be required to pay for monitoring if an offender does not have the ability to pay for the monitoring device, if the offender fails to pay required fees, or when inactive EM or GPS units are not in use (typically 10-20% of the daily fee for a device).

SUCCESS IN OTHER JURISDICTIONS

Santa Cruz County Probation Department currently operates a successful Pre-Trial Release Program. In July 2004, the Sheriff of Santa Cruz County chaired a Jail Overcrowding Committee that brought together justice system stakeholders to develop a set of strategies to reduce jail crowding primarily at their main jail. These strategies included identifying programs that would result in reducing jail overcrowding without compromising public safety. Strategies that were implemented included better inmate classification efforts, resulting in the transfer of some inmates to medium and minimum rated jail facilities, thereby reducing the population at the main jail.

As part of the identified strategies, the Santa Cruz County Probation Department developed pre-trial services to supervise offenders as they proceeded through the court process. The Virginia Risk Assessment tool is utilized by the probation department to identify acceptable defendants for inclusion in the pre-trial supervision program. Electronic Monitoring is provided on a contractual basis with BI Industries at an annual cost of \$35,000. The pre-trial supervision services were developed in concert with a contract with a Community Based Organization (CBO) that identified defendants who routinely were released from jail, failed to comply with terms of probation, had warrants subsequently issued for their arrest, and were rearrested on the warrants. This organization worked with this target population to gain compliance and avert further warrant issuance and incarceration for non-compliance with terms of probation. Another CBO contract was successful in identifying subjects who could participate in community work projects in lieu of incarceration, thus further averting a jail sentence for these lower risk defendants.

As a result of the pre-trial supervision component and the other above-mentioned efforts, the average monthly main jail population in Santa Cruz County has been reduced from 408 inmates in 2004 to a current average monthly population of 315 inmates (effectively eliminating overcrowding by allowing the jail to operate within the

rated capacity). In 2008, 174 offenders spent an aggregate of 9,178 days in the supervised pre-trial program, which represented the same savings in jail bed days.

The results of the Santa Cruz program are impressive, both in terms of public safety and the successful completion of the court process. Of the 174 individuals released on supervised or intensive supervision (electronic monitoring), 95% did not re-offend (based on a conviction stemming from an offense while on pre-trial), and 94% were present at all court appearances. While Santa Cruz County Probation noted that these critical measures of new law convictions and failures to make court appearances are excellent, the pretrial release individuals are supervised closely, and 17% of supervised defendants were returned to jail for violations of the rules, including using drugs and alcohol while in the program. The other 83% completed the program successfully. It should be noted that full development of pre-trial services in Santa Cruz County took years of planning and implementation.

Successful outcomes of similar programs have also been reported in Merced, San Mateo, and Placer Counties; however, most of these programs operate as a Day Reporting Program with sentenced inmates. In Napa County, a Community Corrections Services Center has recently been developed based upon a master plan with input from all agencies that are part of the Adult Criminal Justice Team (Sheriff, Probation, DA, Courts, etc.). The contract will operate under the Probation Department. The Center opened on March 2, 2009, and will have a maximum capacity of 50 participants. During the first six months of operation, they will include only sentenced inmates and probation violation cases. They plan to add a pre-trial component at a later date.

PRE-ARRAIGNMENT RELEASE

It is noteworthy that in Santa Cruz County, the Probation Department has taken the innovative approach of reviewing pre-arraignment arrestees for potential release. The department has placed officers in their jail who do an assessment at the time of arrest regarding the potential for a pre-arraignment release. While there are clearly many circumstances where a pre-arraignment release is not appropriate (i.e., serious offenses, arrestees who pose a danger to the community, serious gang involvement, violence, parole holds, out of the area warrant holds), there are some cases where a subject is arrested for a felony offense that will be filed by the DA as a misdemeanor. In these and other instances, the officers look at the probable cause statements and arrest reports, complete a criminal record check, and obtain statements of the arresting officer, in combination with reviewing an arrestee's ties to the community (i.e., does he/she have family in the area, employment, attend a local school, etc.), and make a determination regarding pre-arraignment release. If a release is warranted, it can be made with or without supervision. A supervised release may include some form of electronic monitoring, just as a pre-trial, post-arraignment release would occur.

In 2008, approximately 400 inmates were released pending arraignment in Santa Cruz County. They estimate that their success rate for these pre-arraignment inmates was over 90%. (Success is defined as defendants who were not rearrested.)

PROGRAM COLLABORATION

Discussions with other jurisdictions regarding pre-trial release programs have emphasized the collaborative nature of the efforts required to make the program successful. These jurisdictions have all emphasized the importance of having all Criminal Justice partners in agreement regarding the program parameters and operations. Some areas for consideration/potential problems regarding program success are noted as follows:

- Supervised pre-trial OR should only be used where supervision is actually warranted.
- Supervised pre-trial release should be selectively used, balancing community safety with the ability to successfully release a defendant pending court proceedings. Some jurisdictions have reported the potential to use supervised release with serious, violent, or gang-involved offenders, making the success of the program tenuous.
- The success of a pre-trial release program appears to be closely related to participants having close ties to the community (family, friends, employment/school connections all appear to be critical areas) and a history of keeping past court appearances. As such, an effective risk assessment tool and pre-trial investigative process is critical to the success of the program.

CASE MANAGEMENT

The successful operation of a Pre-Trial Supervised Release Program is dependent upon the successful screening and monitoring of defendants who participate in the program. Statistical analysis and tracking of outcomes is critical to ensuring that the program operates within the developed parameters to ensure community safety. As such, an effective case management system to screen appropriate participants and track statistical measures and outcomes is considered an integral factor in developing a successful program.

STAFFING

Costs for Pre-Trial Supervised Release Program staffing has been provided at the top step for each classification.

Supervising Deputy Probation Officer (\$158,130). 1 FTE.

Duties: Program oversight and program implementation; interface with Courts, Sheriff, DA, and Public Defender, as needed; supervision of subordinate staff; conference and assess complex cases regarding offender risk and program acceptance.

Senior Deputy Probation Officer (\$120,246). 1 FTE

Duties: Assist with supervision of subordinate staff; review reports and conference cases; act as liaison with the courts and VSO staff regarding pre-sentence inmate population; work with DPO's to ensure program compliance.

Deputy Probation Officer (\$110,474). 4 FTE's. Note: Program to begin with 2 FTE's and expand to 4 FTE's.

Duties: Assist the Senior Deputy Probation Officer as needed regarding the above liaison functions; complete pre-trial screenings/acceptances; assist with the delivery of program components; orient new program participants, including providing any Electronic Monitoring equipment and instructing participants regarding use; provide field supervision/contacts to ensure program compliance; arrest and book non-compliant offenders; complete court reports and related documents.

Legal Processing Assistant II (\$63,160). 1 FTE.

Duties: Provide all case management support services, including case preparation and computer input, and tracking of program participation and outcomes.

Total Annual Staffing Cost: \$783,432

GOALS AND BENEFITS

As discussed in this proposal, a Pre-Trial Supervised Release Program can be an effective tool in both assuring community safety and reducing jail populations. The goals and benefits of an effective program are:

- Give the Court an opportunity to objectively balance public safety against the constitutional rights of a defendant pending trial.
- Allow program participants to maintain or seek employment, maintain family ties, and participate in appropriate counseling and programming as necessary while awaiting trial.
- Provide the court with an opportunity to evaluate a defendant's pre-conviction supervision compliance.
- Lower the county's cost of incarcerating those criminally accused defendants that can be safely released and monitored in the community.