



# Can an Electronic Monitoring Program for Pre-Trial Detainees Help to Reduce Jail Overcrowding?

[Issue](#) | [Background](#) | [Findings](#) | [Conclusions](#) | [Recommendations](#) | [Responses](#) | [Attachments](#)

## Issue

Can expanded use of the Electronic Monitoring Program for the male pre-trial detainee population help safely reduce San Mateo County jail overcrowding?

## Summary

The Maguire Correctional Facility (men's jail) located in Redwood City is populated beyond its State-rated capacity, and has been for many years. Since it appears that the jail facilities will continue to be overcrowded for the foreseeable future, the Grand Jury questioned whether electronic monitoring devices are being used for *pre-trial* detainees (PTDs) and if electronic monitoring devices can be used to alleviate overcrowding in our jail.

From 2002 to 2007 approximately 50 percent of the male jail population consisted of pre-trial detainees. The other 50 percent were individuals who had received a trial or pled guilty and were serving a prescribed sentence. Since 2008, this ratio has steadily changed, with pre-trial detainees reaching about 76% of the jail population in 2011. The Grand Jury looked at the alternatives offered to this growing population of untried, unsentenced individuals to determine if there were opportunities to reduce the number of inmates awaiting trial. A potential alternative to serving time in jail awaiting trial is to release carefully selected persons into an Electronic Monitoring Program (EMP).

The Grand Jury found that utilizing electronic monitoring devices for pre-trial detainees is not part of the current classification process in San Mateo County, no EMP exists for pre-trial detainees, and consequently no persons awaiting trial wear an electronic monitoring device. Several of those interviewed acknowledge that electronic monitoring devices for specific individuals could be a useful tool in reducing jail populations. Expanding EMP efforts to the pre-trial detainee population would require some investment in staff and training, as well as modification of eligibility guidelines. This investment could be partially or wholly offset by cost savings in reducing jail headcount.

The Grand Jury found that significant daily cost savings of approximately \$100 per inmate/per day are available if selected pre-trial detainees are released into an EMP. The Grand Jury recommends that the Sheriff's Office do the following: 1) conduct an objective analysis and issue a report regarding the feasibility of an EMP for selected pre-trial detainees; 2) should the objective analysis and the results of the report indicate that an EMP for selected pre-trial detainees be feasible, prepare an implementation plan to expand EMP for pre-trial detainees for full implementation within 12 months. The objective analysis would include a review of best-

practices in adjoining counties and statewide to evaluate the impact and usefulness of electronic monitoring and its effect on the jail population. It would also include the introduction of a risk assessment tool, such as the Virginia Risk Assessment, for determining defendant eligibility for EMP for pre-trial detainees.

Implementing a non-jail confinement program for some classes of pre-trial detainees could be an important contribution to addressing overcrowded conditions in the men's jail in San Mateo County at a cost savings to the taxpayer.

## **Background**

San Mateo County's male correctional facilities are severely overcrowded, with daily inmate populations ranging from 120% to 147% of rated bed capacity.<sup>1</sup> As described by the Sheriff, overcrowding makes it more difficult and costly to maintain a safe and secure facility due to increased staffing costs, reduced life expectancy of the facility, more frequent and costly maintenance issues, and inadequate program areas for inmate housing.

San Mateo County, along with other State counties, is also facing increased jail populations related to AB109 (Public Safety Realignment), which took effect on October 1, 2011. AB 109 changed sentencing laws in California, sending defendants convicted of some non-violent, non-serious, and non-sexual crimes to county jails instead of state prisons to serve their sentences. The California Department of Corrections and Rehabilitation (CDCR) projected at least 241 additional inmates will be housed in San Mateo County jails each day once AB 109 is fully implemented. Since Realignment began in October 2011, San Mateo County has received approximately 173 post release community supervisees from the state prison system. The Sheriff's Office estimates that the actual increase in inmate Average Daily Population (ADP) could be in the 300 to 400 range.<sup>2</sup>

### **San Mateo County Pre-Trial Services<sup>3</sup>**

In July 2002, the Sheriff's Office and the Probation Department assumed the operation of the "Release on Own Recognizance Program", which was formerly a privately administered program under the direction of the San Mateo County Bar Association. The Sheriff's Office screens, interviews, cites new jail bookings, and gathers related statistical information. The Release on Own Recognizance Program was re-named "Pre-Trial Services" and placed under Adult Probation Services. Currently, Pre-Trial Services, under the auspices of the Sheriff's Office, performs functions such as:<sup>4</sup>

- Background investigations/release recommendations

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<sup>1</sup> San Mateo County Board of Supervisors Memo: October 4 2011; Executive Summary: Replacement Jail Rated Bed Capacity

<sup>2</sup> San Mateo County Board of Supervisors Memo: October 4 2011; Executive Summary: Replacement Jail Rated Bed Capacity

<sup>3</sup><http://www.co.sanmateo.ca.us/portal/site/Probation/menuitem.2a9fd24be9fa6c88b14f2a12e17332a0/?vgnextoid=c840bb37991b6110VgnVCM1000001e37230aRCRD&vgnnextchannel=a6b7dba3b76c6110VgnVCM1000001e37230aRCRD&vgnnextfmt=DivisionsDetail&cId=ac47d925a02d7110VgnVCM1000001d37230a>

<sup>4</sup><http://www.co.sanmateo.ca.us/portal/site/Probation/menuitem.2a9fd24be9fa6c88b14f2a12e17332a0/?vgnextoid=c840bb37991b6110VgnVCM1000001e37230aRCRD&vgnnextchannel=a6b7dba3b76c6110VgnVCM1000001e37230aRCRD&vgnnextfmt=DivisionsDetail&cId=ac47d925a02d7110VgnVCM1000001d37230a>

- Supervision of pre-trial defendants in the community
- Monitoring other court-ordered releases
- Determining goals and benefits

Pre-trial release allows defendants to maintain or seek employment, maintain family ties, and assist in the preparation of their defense while awaiting trial. The process gives the Court an opportunity to objectively balance public safety against the constitutional rights of the defendant. It also allows the court an opportunity to evaluate a defendant’s pre-conviction supervision and sentencing options. According to Pre-Trial Services, over 70% of the detainees in the male facility are PTDs, and cases that are pending are also classified as PTD.<sup>5</sup> (See, Appendix A for more information regarding Pre-Trial Services.)

### Categories of Inmates in the SMC Male Jail Facility

#### Pre-Trial Detainees (PTDs):

Pre-trial detainees are accused individuals detained in jail either because of failure to post bail or denial of release under a pre-trial detention statute. From 2002 to 2007, approximately 50% of the male population consisted of pre-trial detainees. Since 2008, the proportion of pre-trial detainees to total incarcerated has steadily increased, reaching 76% in 2011.<sup>6</sup> (See, Table 1 below)

**Table 1**  
**San Mateo County Average Daily Male Jail Population<sup>7</sup>**

Calendar Year	PTDs	Pre-Sent/ Sentenced	Maguire Jail Totals	Percent PTDs of total inmates	PTDs on EMP	Pre-Sent/ Sent. on EMP
2001	<b>417</b>	434	851	49%	0	12
2002	<b>414</b>	415	829	50%	0	8
2003	<b>452</b>	434	886	51%	0	6
2004	<b>473</b>	455	928	51%	0	5
2005	<b>458</b>	441	899	51%	0	6
2006	<b>502</b>	446	948	53%	0	5
2007	<b>516</b>	496	1012	51%	0	6
2008	<b>611</b>	344	955	64%	0	6
2009	<b>616</b>	332	948	65%	0	7
2010	<b>624</b>	268	892	70%	0	4
2011	<b>649</b>	207	856	76%	0	3

The average male jail daily population has fluctuated over the last ten years from 829 inmates in 2002 to 1012 inmates in 2007. Over this same time period, the average daily population of PTDs has fluctuated from 417 in 2001 to 649 in 2011. The PTDs have generally increased from 2001-2011. (See, Table 1)

According to the Sheriff’s Office, on any given day within a year, the male PTDs count will

<sup>5</sup> Interview with San Mateo County Pre-Trial Services.

<sup>6</sup> San Mateo County Sentenced vs. Pre-Trial in Custody Inmate Population Percentage-data from Sheriff’s Office.

<sup>7</sup> Sheriff’s Office Information: San Mateo County Sentenced vs. Pre-Trial in Custody Inmate Population Percentage.

vary. For example, on November 27, 2011 there were 546 pre-trial detainees. Individuals may be placed in multiple categories based on the charges filed and their individual histories such as immigration/other holds/ outstanding warrants, violent crimes, sex crimes, and DUIs.<sup>8</sup>

**Pre-Sentenced Detainees:**

Pre-sentenced detainees are individuals who have received a trial (or who have pled “guilty”) but have not been sentenced by the Court. To help determine the sentence in felony and the more serious misdemeanor cases, the judge receives a report from the Probation Department that typically includes details regarding the offense, prior criminal convictions, background, education, work history, drug and alcohol use, psychiatric disorders, and medical history. Examples of non-incarceration alternative sentencing include assignment to a General Education Degree class or to a substance abuse program.<sup>9</sup>

**Sentenced Detainees**

Sentenced detainees are individuals who have been tried (or pled guilty) and have been sentenced by the Court. Generally, the primary goals of sentencing are punishment, deterrence, incapacitation, and rehabilitation.

For the past ten years, the bed-rated capacity in the Maguire Correctional Facility has ranged from 120% to 147% above capacity. The Maguire Correctional Facility is a Type II Jail Facility per the California Correctional Standards Authority. The rated capacity of the facility is 688 inmates.<sup>10</sup> (See, Table 2)

**Table 2  
An Overcrowded Jail**

Year	Avg. Daily Population in male jail	Percent of Rated Bed Capacity
2001	851	123%
2002	829	120%
2003	886	128%
2004	928	134%
2005	899	130%
2006	948	137%
2007	1012	147%
2008	955	139%
2009	948	138%
2010	892	130%
2011	856	124%

**Increase in PTD Population 2007-2011**

During the interview process, the Grand Jury learned that the only alternative for charged individuals who do not post bail is incarceration. Two primary reasons for the increase in the pre-trial detainee male jail population were cited: first, the types of charges that most detainees face (immigration holds, gang affiliation, violent crimes, sex crimes, DUIs, and outstanding

<sup>8</sup> Interview with Alternative Sentencing Bureau.

<sup>9</sup> What Does PSI Mean in Court? [http://www.ehow.com/facts\\_6912282\\_psi-mean-court\\_.html](http://www.ehow.com/facts_6912282_psi-mean-court_.html)

<sup>10</sup> San Mateo County Sheriff’s Office Corrections Division Continuity of Operations Plan: “Overcrowding at the Maguire Correctional Facility”; San Mateo County Sheriff’s Office Civil Grand Jury Facility Tour Information; November 1, 2011

warrants) are offenses that sometimes eliminate eligibility for any form of pre-trial release. Second, in 2008 to comply with the Corrections Standards Authority (CSA), the Sheriff's Office changed its classification system for parole holds who had open/pending cases or outstanding warrants.<sup>11</sup> Prior to 2008 individuals with parole holds were classified as sentenced. In 2008, their classification was changed to pre-trial. This increased the pre-trial detainee count by approximately 10-15%.

## **Utilization of Electronic Monitoring in San Mateo County**

### **Pre-Sentenced/Sentenced Detainees:**

The Sheriff's Office EMP was established as an alternative to *sentenced* incarceration in 1995. Utilizing advanced electronic equipment and personal surveillance, the EMP provides an alternative to incarceration for low-risk *convicted* offenders with stable housing environments. Carefully screened participants must be employed, attend school, and/or attend treatment programs. Participants must be recommended for the program by Court Order and pay an income-based fee for participation.<sup>12</sup>

Currently, the Sheriff's Office/ASB uses a written points weighted scale assessment system to evaluate EMP eligibility for *pre-sentenced/sentenced detainees*.<sup>13</sup> Information from this assessment is provided to the Court for sentencing decisions.

As of June 2012, there were 9 *pre-sentenced* detainees on EMP. The decision on eligibility for *pre-sentenced* EMP release starts with the courts. Based on the court's recommendation, the Sheriff's Office and Probation Departments decide, depending on specific circumstances, whether to release an inmate awaiting sentencing into an EMP.

### **Pre-Trial Detainees:**

There is no Electronic Monitoring Program for *pre-trial detainees* in San Mateo County. The Sheriff's Office does not support an EMP for PTDs as it believes that the safety and protection of the County could be compromised if PTDs (those individuals who could not afford bail or for whom no bail is set) were released using electronic monitoring.<sup>14</sup> Also, some individuals interviewed by the Grand Jury have concerns with the questionable fairness of receiving credit for "time-served" during home detention.

The Grand Jury was informed that an expansion of EMP for pre-trial detainees would require an investment in staff and training, and reorganization to adjust priorities and provide supervision. This would include the need to implement an assessment tool for evaluating PTD eligibility for EMP. Several individuals interviewed agreed that expanding the EMP for pre-trial detainees could significantly reduce the male jail population. Many of them stated that further exploration of an expanded EMP could be beneficial as long as the public safety remained in the forefront of all proposals. San Mateo County currently has no budget dedicated to studying or expanding EMP applications for any detainees.

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<sup>11</sup>Interview with Sheriff's Office staff from ASB.

<sup>12</sup> <http://www.smcsheriff.com/divisions/corrections-division/alternative-sentencing-bureau>

<sup>13</sup> Interview with Sheriff's Office staff from ASB.

<sup>14</sup>Interview with San Mateo County Pre-Trial Services and Sheriff's Office.

Finally, during the investigation, the Grand Jury learned that the Sheriff’s Office does not favor the use of the EMP for pre-trial detainees because of its belief that there has been an increase in the number of arrests for violent crimes within the County. However, according to data the San Mateo Sheriff’s Office submitted to the United States Department of Justice regarding male arrests within San Mateo County, from 2001-2009 the violent crime rate has remained relatively flat. (See, Table 3 and Appendix B for Violent Crime Index Rate for this same period broken down by specific offense.)

**Table 3  
Violent Crime Index Rate for San Mateo County<sup>15</sup>**

	Violent Crime Level
<u>Year</u>	<u>Index*</u>
2001	128
2002	122
2003	112
2004	97
2005	133
2006	122
2007	130
2008	143
2009	127

\***Violent Crime Index** – This includes the offenses of murder, non-negligent manslaughter, forcible rape, robbery, and aggravated assault.

Further, the Grand Jury collected felony-conviction rate data from the State of California Department of Justice Criminal Justice Statistics Center.<sup>16</sup> The Grand Jury attempted to gather additional conviction rate data for the years 2010-2011 from the San Mateo County District Attorney’s office. However, the District Attorney’s Office could not provide the data because of an antiquated case management system. Based on the data from the Department of Justice, Bureau of Statistics, the conviction rate has remained stable over the years. (See, Table 4)

**Table 4  
Conviction Rates in San Mateo County**

Year	Conviction Rate (Percent)
2000	87.2
2001	83.2
2002	85.6
2003	89.4
2004	87.9
2005	85.7
2006	83.3
2007	86.0
2008	88.1
2009	86.5

<sup>15</sup> www.bjs.gov. Bureau of Justice Statistics, Washington, D.C

<sup>16</sup> US Department of Justice State of California Department of Justice; Criminal Justice Statistics Center; [http://stats.doj.ca.gov/cjsc\\_stats/prof07/41/6A.htm](http://stats.doj.ca.gov/cjsc_stats/prof07/41/6A.htm)

## Costs of EMP vs. Incarceration

The Sheriff's Office believes that it is difficult to precisely separate the relative EMP costs versus incarceration costs because of many shared resources, infrastructure, and functions within the Sheriff and Probation departments. The Grand Jury found potential cost savings when utilizing EMP. Table 5 shows data the Grand Jury collected from surveys of nearby counties. (See, Appendix C)

**Table 5**  
**Electronic Monitoring Program Cost\* Data from**  
**Surrounding Counties as of January-March 2011<sup>17</sup>**

	<b>2011 Jan-Mar Avg. Daily Men's Jail Population (ADP)<sup>18</sup></b>	<b>% Pre- trial Detainees of Total Jail Population</b>	<b>Daily Electronic Monitoring Cost for Pre-trial Detainees</b>	<b>Daily Incarceration Costs per Inmate</b>	<b>Pre-trial Detainees on Electronic Monitoring Program</b>	<b><u>Approximate</u> Cost Savings per Inmate per Day</b>
Sacramento	3782	61%	\$7-15	\$112	Begins 5/12	\$97
San Mateo	846	76%	\$7-10 (for the Presentenced/Sentenced Detainees	\$169	-0-	\$159
Santa Clara	3129	76%	\$0 (own equipment)	\$204	1	\$204
Santa Cruz	376	50%	\$0 (own equipment)	\$90	25	\$90

\*Note: Additional costs (monitoring, supervision, infrastructure, medical expenses etc.) are not included.

### Santa Cruz County

Of particular interest to the Grand Jury was a 2003 Civil Grand Jury Report from Santa Cruz County. The Santa Cruz County Civil Grand Jury reported on the overcrowding of the Santa Cruz County Main Male Jail. In response to the report, the Santa Cruz Sheriff's office enlisted the services of the Vera Institute of Justice to analyze the office's strengths and relative weaknesses in terms of jail overcrowding.<sup>19</sup>

The Santa Cruz Sheriff's office joined the California Association of Pre-trial Services (CAPS) and adopted its standards and the use of the Virginia Assessment tool, a researched-based instrument that assists Pre-trial Services Officers identify a pre-trial detainee's level of risk.<sup>20</sup> As

<sup>17</sup> Information collected from County surveys (See, Appendix D)

<sup>18</sup> ADP Data for Sacramento, Santa Clara, and Santa Cruz counties:

[http://www.cdcr.ca.gov/csa/FSO/Docs/2011\\_1st\\_Qtr\\_JPS\\_full\\_report.pdf](http://www.cdcr.ca.gov/csa/FSO/Docs/2011_1st_Qtr_JPS_full_report.pdf); ADP data for San Mateo from: San Mateo County Sheriff's Office Corrections Division Civil Grand Jury Facility Tour Information; November 1, 2011

<sup>19</sup> 2003 Santa Cruz Civil Grand Jury Report: Santa Cruz County Correctional Facilities: Are They Effectively Utilized and What are the Options?

<sup>20</sup> Virginia Pre-Trial Risk Assessment Instrument (VPRAI) Instructional Manual.  
<http://www.dejs.virginia.gov/corrections/riskAssessment/>

of April 2012, Santa Cruz County currently has 25 PTDs on EMP. The PTD male jail population is 54%.

## Investigation

The Grand Jury used the following resources to study the utilization of EMP for PTDs:

- Interviews with representatives of the San Mateo County Sheriff's Office, the Probation Department, Alternative Sentencing Bureau (ASB), and the Office of Pretrial Services.
- Reports from the San Mateo County Sheriff's Office and Probation Department.
- Published studies and reports relating to non-incarceration alternatives, technologies, vendors, eligibility standards, best-practices, case legal liability implications. (Sources include judicial, law enforcement, academia, attorney groups and organizations in other Counties and States – *See*, Attachment D).
- Survey responses received from adjacent counties (Santa Clara, Alameda, San Francisco, and Santa Cruz), providing comparative data with San Mateo County.
- Inspection of the Maguire Correctional Facility.

## Findings

The Grand Jury finds:

1. The San Mateo County men's jail has been overcrowded each year since 2001. Over the last ten years, incarcerated populations have ranged from 120% of bed-rated capacity in 2002 to 147% in 2007.<sup>21</sup>
2. From 2002 through 2007, 50 percent of the average daily population of the San Mateo County men's jail facility consisted of pre-trial detainees (PTDs); since 2007, the pre-trial detainee (PTD) average daily population percentage has steadily increased to 76 percent in 2011.
3. San Mateo County has zero (0) *pre-trial detainees* on an Electronic Monitoring Program (EMP) and nine (9) *pre-sentenced/sentenced* detainees on an EMP.
4. The Grand Jury found that significant daily cost savings of approximately \$100 per inmate/per day is available if selected pre-trial detainees are released into an EMP.
5. Currently, there is a risk assessment tool in use to determine eligibility for EMP with *pre-sentenced/sentenced* detainees. This risk assessment tool is not used with *pre-trial* detainees.

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<sup>21</sup> Sheriff's Office Information: San Mateo County Sentenced vs. Pretrial in Custody Inmate Population Percentage.



6. Based on the U.S. Department of Justice adult male arrest data provided by the San Mateo County Sheriff's Office, the violent crime index in the county has remained relatively stable from 2001-2009.
7. According to information gathered from interviews conducted by the Grand Jury, the reasons for the increase in the pre-trial detainee male jail population (compared to pre-sentenced/sentenced detainees) in recent years are due to two main factors:
  - The types of charges that detainees increasingly face (immigration holds, gang affiliation, violent crimes, sex crimes, DUIs, outstanding warrants) are offenses that eliminate eligibility for any form of release.
  - To comply with the Corrections Standards Authority (CSA), in 2008 the Sheriff's Office changed its classification system for parole holds and others with pending cases or warrants from sentenced to pre-trial. This increased the pre-trial detainee population by 10-15%.<sup>22</sup>
8. The statistics reported by the U.S. Department of Statistics, Bureau of Justice Statistics (*see*, Appendix B) from data provided by the San Mateo County Sheriff's Office do not support the first factor listed in Finding #7.<sup>23</sup>
9. The Sheriff's Office and the Probation Department have not budgeted for studying or implementing an EMP for pre-trial detainees.
10. Elsewhere EMPs for PTDs have been implemented to varying degrees:
  - Santa Cruz and Santa Clara have purchased their own ankle bracelets and related equipment.
  - Santa Cruz and Sacramento have an active budget for EMP expansion and Pre-trial Services.
  - Santa Clara has one PTD on EMP; Santa Cruz has 25 PTDs on EMP; and Sacramento's EMP program for PTDs begins May 2012.
  - Santa Cruz is a member of the California Association of Pretrial Services (CAPS) and uses the Virginia Assessment tool to determine eligibility of PTDs for EMP.
  - San Mateo County spends \$7-10 (not including monitoring, supervision costs) per day on EMP for pre-sentenced/sentenced detainees versus a \$169 daily incarceration cost.

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<sup>22</sup> Interview with Sheriff's Office staff from ASB on March 7, 2012

<sup>23</sup> U.S. Department of Justice: Bureau of Justice Statistics, FBI, Uniform Crime Reporting Program; Date of Version: September 2011

11. Substantial literature exists for the study and guidance of non-incarceration options, eligibility guidelines, EMP applications, best-practices, etc. (*See*, Appendix D)

## **Conclusions**

The Grand Jury concludes:

1. Overcrowding in the male jail facility would be reduced if the San Mateo County Sheriff's Office implemented an Electronic Monitoring Program (EMP) for pre-trial detainees.
2. If San Mateo County had an EMP for pre-trial detainees, there would be a net cost savings.
3. Having an EMP for pre-trial detainees would provide an additional tool for making release decisions.
4. There is no reason to believe that this overcrowded condition will change materially until a new jail is constructed.
5. San Mateo County already has an EMP for pre-sentenced detainees, so the expansion of that program should not necessarily involve a significant increase in labor, capital or implementation costs.
6. San Mateo County has the potential to achieve success in reducing the jail population without jeopardizing public safety by using a risk assessment tool similar to the Virginia Assessment Tool and by implementing standards that are similar to California Association of Pre-Trial Services (CAPS) for PTDs.

## **Recommendations**

The Grand Jury recommends that the Sheriff's Office:

1. Conduct an objective analysis and issue a report regarding the feasibility of an Electronic Monitoring Program (EMP) for selected pre-trial detainees. Include: eligibility and risk assessment program, comparative costs versus incarceration, societal risks and benefits; and potential reduction of jail overcrowding.
2. Should the objective analysis and the results of the report indicate that an EMP for selected pre-trial detainees be feasible, prepare an implementation plan to expand EMP for pre-trial detainees for full implementation within 12 months. This process will include:
  - A review of the available literature and best-practices in adjoining counties and elsewhere for possible application in the County's expansion of EMP for pre-trial detainees.

- Implementation of a risk assessment tool, such as the Virginia Risk Assessment, for determining defendant eligibility for EMP for pre-trial detainees.

## **Appendix A: San Mateo County Pre-Trial Services**

In July 2002, the Sheriff's and Probation Department assumed the operation of the "Release on Own Recognizance Program" which was formerly a privately administered program under the direction of the San Mateo County Bar Association. The Sheriff's Department screens, interviews, and, when appropriate, cites new jail bookings. They are responsible for related statistical information gathering. The Release on Own Recognizance Program (O.R. Program) was re-named "Pre-Trial Services" and placed under Adult Probation Services. Pre-Trial Services performs the following services:

### **Background Investigations/Release Recommendations**

Pre-Trial Services staff investigate, verify, and evaluate background information for criminally accused defendants. This includes verifying residence, employment, family ties, evaluating criminal history, obtaining references and probation/parole officer reliability comments, and researching pending cases and the client's performance in previous cases. Pre-Trial Services prepares written release and non-release recommendations which the Court considers in its decision to either release, adjust bail or keep defendants in-custody while awaiting trial. The court generally considers the release recommendation at the in-custody arraignment stage. Along with the release recommendation, and before arriving at a release decision, the court also evaluates flight risk and community safety. The staff also prepares a release for out-of-custody defendants, for example, those with outstanding arrest warrants, at the direction of the Court.

### **Supervision of Pre-Trial Defendants in the Community**

Probation officers actively supervise Pre-Trial defendants granted conditional/supervised O.R. release. Defendants are required to remain in regular personal and telephone contact. The intensity of supervision varies and depends on specified court-order conditions and/or the nature of the charges; for example, those charged with crimes of violence are supervised more intensively. Those charged with substance abuse are usually ordered to abstain from and test for controlled substances. Probation officers also refer, or direct, defendants to substance abuse or mental health treatment, or employment training. Officers counsel defendants about Pre-Trial misconduct issues. Officers also keep the court informed regarding compliance orders and recommend appropriate court action when necessary. Finally, officers evaluate the defendant's Pre-Trial performance and report the information to the Adult Probation Services Division, as needed.

### **Monitoring Other Court-Ordered Releases**

Pre-Trial staff monitors the cases of defendants released on Regular (unsupervised) O.R. release. These defendants are generally deemed low-risk. The staff sends timely future court appearance notices, makes reminder telephone calls, and tracks their court cases through the adjudication phase. Staff members also monitor field citation releases issued by in-county and out-of-county law enforcement agencies. The staff maintains working relations with these law enforcement agencies and the court clerk's office in order to ensure that the citation process functions effectively and achieves a high court appearance rate.

## Appendix B: United States Department of Justice: Bureau of Justice Statistics

United States Department of Justice: Bureau of Justice Statistics

Data Source: FBI, Uniform Crime Reporting Program; Date of Version: September 2011

Authors: Howard N. Snyder, Ph.D., Joseph Mulako-Wangota, Ph.D

### Arrests of Male Adults reported by San Mateo County Sheriff Department

Offense	2001	2002	2003	2004	2005	2006	2007	2008	2009
<b>Murder and Non-Negligent Manslaughter</b>	1	3	1	2	3	1	1	0	1
<b>Forcible Rape</b>	0	5	0	2	2	1	2	2	6
<b>Robbery</b>	13	10	3	4	11	6	5	13	14
<b>Aggravated Assault</b>	114	104	108	89	117	114	122	128	106
<b>Burglary</b>	11	13	10	26	34	27	23	33	25
<b>Larceny-Theft</b>	16	16	20	22	13	23	23	41	39
<b>Motor Vehicle Theft</b>	13	20	10	21	21	25	13	8	9
<b>Arson</b>	0	1	0	1	0	0	1	1	0
<b>Other Assaults</b>	41	38	51	54	62	87	84	86	79
<b>Forgery and Counterfeiting</b>	14	15	7	18	5	5	5	13	5
<b>Fraud</b>	14	11	8	2	10	6	3	15	14
<b>Embezzlement</b>	0	2	0	1	0	0	0	2	2
<b>Stolen Property; Buying, Receiving, Possessing</b>	16	33	30	29	26	26	12	17	15
<b>Vandalism</b>	8	29	24	9	20	25	17	13	13
<b>Weapons; Carrying, Possessing, etc.</b>	26	19	46	43	49	37	25	34	39
<b>Prostitution and Commercialized Vice</b>	5	3	5	2	0	1	0	0	1
<b>Sex Offense (except forcible rape and prostitution)</b>	12	15	15	10	10	17	17	4	9
<b>Drug Abuse Violations -Total</b>	271	359	397	363	370	521	389	402	413
<b>Sale-Manufacturing-Total</b>	109	143	154	126	72	84	98	159	188
<b>Possession-SubTotal</b>	162	216	243	237	298	437	291	243	225
<b>Gambling</b>	0	1	0	0	0	0	0	0	0
<b>Offenses Against the Family and Children</b>	0	0	0	0	0	0	0	0	0
<b>Driving Under the Influence</b>	63	57	58	54	40	65	66	56	76
<b>Liquor Laws</b>	5	3	1	6	2	4	3	23	27
<b>Drunkenness</b>	230	263	263	200	250	230	200	269	294
<b>Disorderly Conduct</b>	0	1	3	0	1	1	2	3	2
<b>Vagrancy</b>	11	1	0	2	9	7	10	5	2
<b>All Other Offenses (except traffic)</b>	1,114	1,026	972	1,029	1,234	1,244	1,312	1,196	1,037
<b>Suspicion</b>	0	0	0	0	0	0	0	0	0
<b>Curfew and Loitering Law Violations</b>	0	0	0	0	0	0	0	0	0
<b>Runaways</b>	0	0	0	0	0	0	0	0	0
<b>Violent Crime Index</b>	<b>128</b>	<b>122</b>	<b>112</b>	<b>97</b>	<b>133</b>	<b>122</b>	<b>130</b>	<b>143</b>	<b>127</b>
<b>Property Crime Index</b>	40	50	40	70	68	75	60	83	73

## Appendix C: Sample Survey Sent to Adjacent Counties

### Electronic Monitoring Program for Pre-Trial Detainees (PTDs) Survey Questions

Please return by 3/29/2012.

1. What is the average daily population (ADP) of men (not juveniles) currently incarcerated in your county jail(s)? \_\_\_\_\_ Is the ADP below/over/on-target of State rated capacity for your facility? \_\_\_\_\_
2. Of these incarcerated individuals, what percentage are pre-trial detainees? \_\_\_\_\_
3. Of incarcerated PTDs, what types of charges are they facing? Using the list below, please rank the following nine charges from most frequent to least frequent with 1 being the most and 9 being the least.
  - immigration/other holds \_\_\_\_\_
  - gang affiliation \_\_\_\_\_
  - violent crimes \_\_\_\_\_
  - multiple/ repeats \_\_\_\_\_
  - sex crimes \_\_\_\_\_
  - outstanding warrants \_\_\_\_\_
  - DUI \_\_\_\_\_
  - drug offences/trafficking \_\_\_\_\_
  - other serious offenses \_\_\_\_\_
4. Of the total PTDs, what percentage face charges other than those listed above and are eligible for an electronic monitoring program (**EMP**)? \_\_\_\_\_
5. What is the approximate cost (\$ / day / person) to sustain a PTD in your EMP? \_\_\_\_\_. Please include all direct and indirect costs (vendors fees, supervision, enforcement response, other functions' support, monitoring, administration, etc).
6. What is the equivalent, comparative approximate cost (\$ / day / person) to keep a PTD incarcerated? \_\_\_\_\_. Please consider all direct and indirect costs.
7. Please provide copies or links to your public policies regarding eligibility criteria and processes for administering your EMP programs, especially those that might be relevant to PTDs.
8. How many PTDs are currently in your EMP? \_\_\_\_\_ How many total convicts (tried and sentenced) are in your EMP? \_\_\_\_\_
9. Do you have active, budgeted plans to expand EMP? \_\_\_\_\_ for only PDTs? \_\_\_\_\_
10. **[OPTIONAL]** Please provide any comments regarding other aspects of expanded utilization of EMP for PTDs, such as:
  - beneficial results re recidivism, re-entry, family, restitution opportunities, medical cost savings etc
  - opportunity to substantially reduce prison overcrowding
  - legal liability exposure or control restrictions, when releasing PTDs into EMP
  - citizens' safety concerns
  - added infra-structure and support costs, need for staff training/organization
  - other

Thank you for taking the time to answer this survey. **NONE OF YOUR RESPONSES WILL BE ATTRIBUTED TO YOU OR YOUR SPECIFIC COUNTY.** If you wish to receive a copy of our final published report, please note on your returned responses and we will forward a copy to you.

## Appendix D: Adjacent Counties Use of EMPs for PTDs

### Alameda County:

The Pretrial Services Division<sup>24</sup> at the Superior Court provides verified information for recently arrested defendants to the Superior Court of California, County of Alameda. The judge or commissioner uses the information to determine a defendant's eligibility to be released from jail on his or her own recognizance - without posting bail. The Division interviews defendants and conducts an investigation into each defendant's ties to the community, potential danger to the community, reliability for attending court dates, and prepares a written report for each defendant interviewed. Currently there is not an EMP for PTDs in place for PTDs.

### Sacramento County:

The Pretrial Services Unit is a part of the Criminal Law Division. The main responsibility of Pretrial Services is to interview defendants arrested on felony charges. Interviews are scored based on residency, length of time in the greater Sacramento area, employment and criminal history. The Pretrial Services provides the magistrate (judge on call) with the information; the magistrate determines whether the defendant should be released on his or her own recognizance.<sup>25</sup> This unit operates seven days a week, twenty-four hours a day. PTDs would be eligible for EMP should the court decide to place them on a Supervised O.R. When the EMP starts in May 2012, the court will determine who (out of the jail population) will be allowed to be released on Supervised O.R. The court's determination will be made during arraignment and not on the day of arrest. This was to alleviate the challenges of individuals who might be released on Supervised O.R. and the DA then decides to not file/drop the charges soon thereafter. As of April 2012, the number of eligible PTDs for supervised OR is approximately between 7 to 18 daily.<sup>26</sup>

### Santa Clara County:<sup>27</sup>

Office of Pretrial Services (OPS) is a stand-alone county department that only handles pretrial matters. It is not part of Probation. It provides supervision using electronic monitoring for defendants with Electronic Monitoring Program (EMP) as a condition of release from a judge's order. The Court refers the defendants to Pretrial Services for EMP consideration. The defendants are screened so that certain technical requirements are met to ensure the proper use of the electronic equipment. A risk assessment is also conducted and a report with a release recommendation is generated for the Court. Generally, the judges will consider the use of alcohol monitors for PTDs for DUI matters if the individuals have the ability to pay a private provider. Probation does not have the exact number of those PTDs on alcohol monitors. However, as of early April, the OPS supervised five PTDs who were assigned to a private vendor's alcohol monitoring device.

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<sup>24</sup> <http://www.alameda.courts.ca.gov/Pages.aspx/Pretrial-Services-Division>

<sup>25</sup> <http://www.saccourt.ca.gov/general/virtual-courthouse/jail/pretrial.aspx>

<sup>26</sup> Per email from Sacramento Sheriff's office

<sup>27</sup> <http://www.sccgov.org/portal/site/scc/chlevel3?path=%2Fv7%2FSCC%20Public%20Portal%2FLaw%20and%20Justice%2FPretrial%20Services%2FSpecial%20Programs>

## **Santa Cruz County:**

Pretrial Services is part of Probation Department. As of April 2012, the male jail population contained approximately 54% pre-trial detainees. There were 25 detainees on EMP; 25 detainees were on Supervised OR. With the exception of ICE holds and parole holds, everyone is assessed with the Virginia Assessment tool<sup>28</sup>. Additionally, Santa Cruz is a member of the California Association of Pretrial Services (CAPS)<sup>29</sup> and adheres its standards and recommendations that set out the core values underlying the basic operation of pretrial service programs. Santa Cruz does not charge the PTDs for EMP because Santa Cruz owns the ankle bracelets. The Pretrial Service Unit recommends five types of release: 1) pre-arraignment release; 2) own-recognizance Release (OR); 3) supervised release, including home and work visits and drug/alcohol testing; 4) intensive supervised release with an electronic monitor and/or an alcohol monitor; and 5) post sentence electronic monitoring.<sup>30</sup> In 2003 the Civil Grand Jury reported on the overcrowding of the Santa Cruz jail. In response to the GJ report, the Santa Cruz Sheriff's office enlisted the services of the Vera Institute of Justice to analyze the office's strengths and relative weaknesses in terms of jail overcrowding. After a lengthy study, the Vera Institute made several recommendations, which have subsequently been institutionalized by the department. For example, the department joined California Association of Pretrial Services (CAPS) and adopted its standards as well as agreed to use the Virginia Risk Assessment instrument for pre-trial detainees.

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<sup>28</sup> Virginia Pretrial Risk Assessment Instrument (VPRAI) Instruction Manual

<sup>29</sup> California Association of Pretrial Services (CAPS- Standards and Procedures for Pretrial Service Programs

<sup>30</sup> Santa Cruz County Probation Department Jail Alternatives: Summary and impact of programs 2005-2010



## Appendix E: General References - Suggested Reading

1. California Association of Pretrial Services: Release Standards and Recommended Procedures.  
**Website:** [pretrialservicesca.org](http://pretrialservicesca.org)
2. Cook County, IL. Grant for up to \$1 Million for Sheriff's EMP  
**Website:** <http://blog.cookcountygov.com/2011/10/06/pres-preckwinkle-announces-up-to-1-million-for-sheriff%E2%80%99s-electronic-monitoring-program/>
3. Pretrial Justice Institute  
**Website:** <http://www.pretrial.org/Pages/Default.aspx>
4. ProTrac Development Inc.: Monitoring Probation Devices  
**Website:** <http://www.protracdev.com/>
5. Santa Cruz County "Jail Alternatives" 2010  
**Website:**  
<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&ved=0CGAQFjAB&url=http%3A%2F%2Fsccounty01.co.santa-cruz.ca.us%2Fprb%2Frpts%255CJailAlt.pdf&ei=Q1atT5OOLdTWiAKzkezrAw&usg=AFQjCNEH2FP8k4iRS1c7UDZAm7kPBNx8PQ&sig2=RzeikNb8za8LtR1fWwN2jQ>
6. The United Nations Office on Drugs and Crime: Custodial and Non-Custodial Measures: Alternatives to Incarceration.  
**Website:**  
[http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CFcQFjAC&url=http%3A%2F%2Fwww.unodc.org%2Fdocuments%2Fjustice-and-prison-reform%2Fcjat\\_eng%2F3\\_Alternatives\\_Incarceration.pdf&ei=IFStT6KWFcqfiALf7InuAw&usg=AFQjCNGBsmAGiYKzG4V37G3ZiEW8kPyiBA&sig2=ev3ryE5g7LJ3zRTKc1UnSQ](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&ved=0CFcQFjAC&url=http%3A%2F%2Fwww.unodc.org%2Fdocuments%2Fjustice-and-prison-reform%2Fcjat_eng%2F3_Alternatives_Incarceration.pdf&ei=IFStT6KWFcqfiALf7InuAw&usg=AFQjCNGBsmAGiYKzG4V37G3ZiEW8kPyiBA&sig2=ev3ryE5g7LJ3zRTKc1UnSQ)
7. VERA Institute of Justice **Website:** <http://www.vera.org/>
8. Virginia Risk Assessment Instrument Training Manual  
**Website:** [www.dcjs.virginia.gov/corrections/documents/vpraiManual.pdf](http://www.dcjs.virginia.gov/corrections/documents/vpraiManual.pdf)
9. Washington County Sheriff's Office, Washington County, WI: Electronic Monitoring Program.  
**Website:** <http://www.washingtoncountysheriffwi.org/em.php>
10. WTTW 11: Chicago Tonight: Electronic Monitoring  
**Website:** <http://chicagotonight.wttw.com/comment/3507>



COUNTY OF SAN MATEO

# Office of the Sheriff

GREG MUNKS  
SHERIFF

CARLOS G. BOLANOS  
UNDERSHERIFF

TRISHA L. SANCHEZ  
ASSISTANT SHERIFF

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September 24, 2012

Honorable Gerald J. Buchwald  
Judge of the Superior Court  
Hall of Justice and Records  
400 County Center, 8<sup>th</sup> Floor  
Redwood City, California 94063

Re: Grand Jury Report: Use of Electronic Monitoring Program for Pre-Trial Detainees

Dear Judge Buchwald,

The Sheriff's Office appreciates the 2011-2012 Grand Jury's report concerning the use of the Electronic Monitoring Program (EMP) for Pre-Trial Detainees (PTDs). We have reviewed the report and provide the following responses to both the findings and recommendations pertaining to our agency:

**FINDINGS:**

- 1) The San Mateo County men's jail has been overcrowded each year since 2001. Over the last ten years, incarcerated populations have ranged from 120% of bed-rated capacity in 2002, to 147% in 2007.

**Response:**  
Agree.

- 2) From 2002 through 2007, 50 percent of the average daily population of the San Mateo County men's jail facility consisted of pre-trial detainees; since 2007, the percentage of pre-trial detainees (PTD) of the average daily population has steadily increased to 76 percent in 2011.

**Response:**

Agree.

We attribute the substantial shift in percentages to a number of factors, including our robust Alternative Sentencing Bureau, which reduces the number of inmates serving their sentence in our correctional facilities.

- 3) San Mateo County has zero (0) PTDs on an EMP and nine (9) pre-sentenced/sentenced detainees on an EMP.

**Response:**

Agree.

- 4) Significant daily cost savings of approximately \$100 per inmate/per day is available if selected PTDs are released into an EMP.

**Response:**

Respectfully disagree.

We believe that it is difficult to accurately compare the EMP costs versus incarceration costs. Our calculations indicate the figure for San Mateo County would be a savings of approximately \$7 per inmate (this figure includes the additional costs of monitoring, supervision, infrastructure, administrative expenses, etc.) dependent at least in part upon the number on the EMP at any given time.

- 5) Currently, there is a risk assessment tool in use to determine eligibility for the EMP with pre-sentenced/sentenced detainees. This risk assessment tool is not used with PTDs.

**Response:**

Agree.

- 6) The violent crime index in the county has remained relatively stable from 2001-2009.

**Response:**

Agree.

- 7) The reasons for the increase in the PTD male jail population (compared to pre-sentenced/sentenced detainees) in recent years are due to two main factors:
- The types of charges that detainees increasingly face (immigration holds, gang affiliation, violent crimes, sex crimes, DUIs, outstanding warrants) are offenses that eliminate eligibility for any form of release.
  - To comply with the Corrections Standards Authority (CSA), in 2008 the Sheriff's Office changed its classification system for parole holds and others with pending cases or warrants from sentenced to pre-trial. This increased the pre-trial detainee population by 10-15%.

**Response:**

We agree in part with this finding; another reason for the increase in the percentage of male PTDs is the aggressive use of alternatives to incarceration for the sentenced population and the use of early release through the imposition of modifiable sentences.

- 8) The statistics reported by the U.S. Department of Justice Statistics (see, Appendix B) from data provided by the San Mateo County Sheriff's Office do not support the first factor listed in Finding #7.

**Response:**

Agree.

We note that the data source for the U.S. Department of Justice Statistics is the FBI Unified Crime Reporting Program that lists the details of arrests made by the San Mateo County Sheriff's Office. The PTD male jail population of San Mateo County consists of arrests made by all agencies within San Mateo County, and on occasion, other entities, such as the California Highway Patrol and the Federal Bureau of Investigation.

- 9) The Sheriff's Office and the Probation Department have not budgeted for studying or implementing an EMP for PTDs.

**Response:**

Agree.

- 10) Elsewhere, EMPs for PTDs have been implemented to varying degrees:
- Santa Cruz and Santa Clara have purchased their own ankle bracelets and related equipment.
  - Santa Cruz and Sacramento have an active budget for EMP expansions and Pre-trial Services.
  - Santa Clara has one PTD on the EMP; Santa Cruz has 25 PTDs on the EMP; and Sacramento's EMP for PTDs began May 2012.

- Santa Cruz is a member of the California Association of Pretrial Services (CAPS) and uses the Virginia Assessment tool to determine eligibility of PTDs for the EMP.
- San Mateo County spends \$7-10 (not including monitoring, supervision costs) per day on the EMP for pre-sentenced/sentenced detainees versus a \$169 daily incarceration cost.

**Response:**

We agree with this finding, except for the last bullet point.

The figure of \$7-10 for pre-sentenced/sentenced detainees does not represent the dollar amount costs for pre-sentenced/sentenced detainees in San Mateo County. As previously mentioned, it is difficult to separate the precise relative EMP costs versus incarceration costs. Currently, San Mateo County does not employ the EMP for PTD's.

- 11) Substantial literature exists for the study and guidance of non-incarceration options, eligibility guidelines, EMP applications, best-practices, etc. (See, Appendix D)

**Response:**

Agree; however, please note that Appendix D, that the Grand Jury refers to does not support this finding.

**RECOMMENDATIONS:**

- 1) Conduct an objective analysis and issue a report regarding the feasibility of an Electronic Monitoring Program (EMP) for selected pre-trial detainees. Include: eligibility and risk assessment program, comparative costs versus incarceration, societal risks and benefits; and potential reduction of jail overcrowding.

**Response:**

This recommendation requires further analysis.

We have embarked on a project with Resource Development Associates (RDA) who recently worked with the County on creating the Community Corrections Partnership's Local Implementation Plan in response to realignment. RDA is working with us, and our stakeholders, to create a strategic plan for our programs and services for all of our inmate populations. This has included conducting a gap analysis with input from stakeholders and formerly incarcerated inmates.

RDA has also created a map depicting the current flow of inmates through our systems and facilities while in custody and upon release. One of our goals is to have a risk assessment tool complementary with our inmate classification

screening and Release on Own Recognizance (ROR) screening, in order to ensure inmates eligible for release on their own recognizance, along with those remaining in custody, are matched with the best services and programs throughout their incarceration. Therefore, upon release, they will have the best chance for successful re-entry into the community.

The process all inmates go through to determine their custody status upon booking is intricate. Upon arrest many subjects are issued citations and released by law enforcement in the field.

For those booked into custody, all inmates are screened by our Release on own Recognizance (ROR) staff. Those eligible for release are either cited out of jail or post bail.

The next step is to go before the Superior Court of San Mateo County for arraignment. As guided by statute, the Court makes evidence based decisions specific to each case. This includes the consideration of the nature of the crime, the type of injury or damage inflicted, the age and prior records of the offender and other specific circumstances that might disclose any likelihood that this particular defendant is probable to continue their criminal behavior if released.

2) Should the objective analysis and the results of the report indicate that an EMP for selected PTDs be feasible, prepare an implementation plan to expand EMP for pre-trial detainees for full implementation within 12 months. This process will include:

- A review of the available literature and best-practices in adjoining counties and elsewhere for possible application in the County's expansion of EMP for pre-trial detainees.
- Implementation of a risk assessment tool, such as the Virginia Risk Assessment, for determining defendant eligibility for EMP for pre-trial detainees.

**Response:**

This recommendation requires further analysis.

The Sheriff's Office is not prepared to conclude that creating a pre-trial EMP furthers the interest of justice, improves public safety or significantly contributes to addressing overcrowded conditions at the men's and women's jail in San Mateo County at a cost savings to the taxpayer. We do not dispute that the EMP process facilitates a way to avoid incarceration, yet consideration and alternatives for implementation of such a program requires consensus by all members of the criminal justice community.

Incarceration serves purposes other than punishment. The time in custody is valuable for the assessment of certain inmate needs. Specifically, offender needs in terms of treatment, substance abuse counseling, vocational and educational services along with re-entry support methodologies upon release. Our goals are multifold; one is to get people out of the negative aspects of their environment that led to their incarceration. Another is to help create a more structured, supportive atmosphere where they can get the programming and services needed to be successful in the community.

We are open to continuing to work with the Superior Court of San Mateo County, which determines the pre-trial population's custody status, in examining what enhancements can be made to local criminal justice system processes. We remain committed to ensuring that the high level of public safety in this county is maintained.

The Sheriff's Office appreciates the work of the San Mateo County Civil Grand Jury and we look forward to continuing our work with all of our criminal justice partners in providing professional law enforcement services to those we serve in San Mateo County.

Sincerely,

Greg Munks  
Sheriff