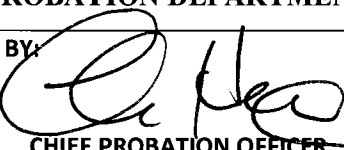


<b>SOLANO COUNTY CALIFORNIA PROBATION DEPARTMENT</b>	<b>POLICY NUMBER:</b>  107	<b>EFFECTIVE DATE:</b>  August 1, 2015
<b>APPROVED BY:</b>  <b>CHIEF PROBATION OFFICER</b>	<b>TITLE:</b>  <b>ADULT SERVICES PRETRIAL SERVICES</b>	

1. **Policy** – Pretrial Services shall assist the Court in making prompt, fair, and effective defendant release/detention decisions by screening for risk, preparing a report for the Court, monitoring and supervising released defendants to minimize risks of non-appearance at Court proceedings, and provide for public safety.
  
2. **Definitions** – (*Attachment A*)
  
3. **Procedures**
  - A. **Defendant Eligibility for Considering Pretrial Release by Pretrial Services Staff**
    - (1) Initial eligibility screening shall be conducted at booking or at the earliest point thereafter prior to the defendant's arraignment.
    - (2) Those in-custody defendants over whom the Court has no jurisdiction to include; fugitive holds, Immigration and Customs Enforcement holds, parole holds, formal probation holds, felony warrants, and 1320PC charges shall not be considered for pretrial release.
    - (3) Defendants arrested and charged for an offense that bail is not allowed by statute (Capital Murder) shall not be considered for pretrial release.
    - (4) Defendants who post bond prior to their arraignment shall not be interviewed for placement on pretrial release unless requested by the Court.
    - (5) Defendants charged with offenses enumerated in Penal Code Sections 1319(A) and 1319.5 are ineligible for pre-arraignment pretrial release screening, but may be considered after their arraignment if requested by the Court.
    - (6) Defendants arrested and charged for an offense that would require them to register pursuant to 290 PC shall not be considered for pretrial release.
    - (7) All defendants remaining eligible for release consideration shall not be excluded from the release process merely due to factors such as the instant charge or prior criminal history.

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- (8) A defendant shall not be automatically eliminated from consideration for pretrial release based simply upon the fact that another criminal case is pending. Each defendant shall be considered in the screening process, independent of the instant charge.

B. The Defendant Interview

- (1) In all eligible cases in which the defendant is in custody and charged with a criminal offense, an interview and investigation to provide information relating to pretrial release shall be conducted by Pretrial Services staff prior to the defendant's arraignment in Court.
- (2) Pretrial Services staff shall advise the defendant that
  - a. The Pretrial Services interview is voluntary.
  - b. The Pretrial Services interview is intended solely to assist in determining an appropriate pretrial release option.
  - c. The Pretrial Services interview shall not include any questions relating to the events or details of the current charge.
- (3) Release shall not be denied solely because the defendant has refused the Pretrial Services interview. In such cases the Court shall be informed.
- (4) In conducting the interview, Pretrial Services staff shall complete the Ohio Risk Assessment System – Pretrial Assessment Tool (ORAS-PAT) (**Attachment B**) in accordance with the Scoring Guide (**Attachment C**). In addition, the ORAS-PAT Interview Guide shall be followed, completed and retained (**Attachment D**).

C. Verification of Defendant Information

- (1) Pretrial Services staff shall inform the defendant that they will seek to verify the information obtained during the interview. The interviewer shall ask the defendant to provide the names, relationships and telephone numbers of reliable verification sources. At a minimum, Pretrial Services staff shall seek to verify the following information:
  - a. Residence
  - b. Length of time in the community
  - c. Family ties
  - d. Employment and education
  - e. Prior performance in any pretrial programs
  - f. Prior criminal history

- (2) Pretrial Services staff shall seek to verify any information directly affecting the assessment of the defendant's risk potential. Verification may be achieved through interviews with third party contacts. Pretrial Services staff shall inform the defendant of the verification process and shall respect the defendant's wishes not to contact certain potential verification sources (e.g., employers and schools).
- (3) Pretrial Services staff shall continue to seek verification in those instances where release is not secured due to the absence of verification. Inability to verify information shall not necessarily result in a negative release recommendation.
- (4) In cases involving physical violence or a threat of physical violence, the Pretrial Services staff shall attempt to contact any identifiable victim. At a minimum, information shall be obtained regarding the relationship between the victim and the defendant and any substance abuse issues. The victim shall be advised that the information provided might be shared with other criminal justice and social service agencies. In addition, referrals should be provided to County resources that provide victim assistance when appropriate. Information received from the victim that is pertinent to the release recommendation shall be included in the recommendation section of the Pretrial Services Report. Specifically the Pretrial Services staff shall ask the victim the following questions, as relevant:
  - a. Were there any prior incidents reported or unreported?
  - b. What is the extent of the present injury(ies)?
  - c. Is the victim fearful of the defendant's release in any way?
  - d. Does the victim want the defendant to reside at an alternate release address?
  - e. Are there any weapons in the home?
  - f. Is the victim aware of substance abuse by the defendant?
  - g. Was an emergency protective order issued? If so, is he/she planning on seeking a temporary restraining order?
  - h. Does he/she believe the defendant will abide by the court orders?

D. Pretrial Services Report

- (1) Pretrial Services staff shall compile reliable and objective information relevant to the Court's determination concerning pretrial release or detention. The report shall include information obtained through the interview of the defendant and other information obtained through the

investigation. A standardized Pretrial Service Report, (Attachment E), shall be prepared that organizes the information, presents an assessment of risk posed by the defendant, and recommends ways of responding to the risk and identifying appropriate release options.

- (2) In addition to the information contained in the standardized Pretrial Service Report, reports that are prepared for a case involving a violent felony as described in subdivision (c) of Section 667.5 of the California Penal Code, or a felony violation of subdivision (a) of Section 23153 of the California Vehicle Code, shall include the following:
  - a. Verification of any outstanding warrants against the defendant
  - b. Verification of any prior incidents where the defendant has failed to make a court appearance
  - c. Verification of the criminal record of the defendant
  - d. Verification of the residence of the defendant during the past year
- (3) Pretrial Services staff shall base their recommendations on the results of the ORAS-PAT and other information obtained during the interview and investigation process. Considering all the information obtained, defendants who score 0-5 on the ORAS-PAT shall normally be recommended for release. Defendants who score 6 or above shall normally be recommended to be detained.
- (4) On a case by case basis, defendants scoring 5 or below may be recommended to be detained, and defendants scoring 6 or above may be recommended for release.
  - a. When considering detention for a defendant who scores 5 or below, the following aggravating factors should be considered:
    - i. Offense (Severity/Serious nature of the crime)
    - ii. Victim Considerations (Victim Safety / Unable to Contact)
    - iii. Criminal record and/or FTA history more serious than risk score reflects
    - iv. On probation / parole / release agreement at time of arrest
    - v. Unverifiable information
    - vi. Inability to understand and comply with the release conditions

- b. When considering release for a defendant who scores 6 or above, the following mitigating factors should be considered:
  - i. Stable employment and/or residence
  - ii. Satisfactory family controls and support
  - iii. Previous success on pretrial release
  - iv. Medical Impairment / Disabled
  - v. Length of time since prior convictions / arrests / FTA history
  - vi. Have completed or are actively involved in treatment
- (5) When making a recommendation the following four options shall be considered:
  - a. Release Outright (Own Recognizance Release)
  - b. Release on Pretrial with conditions as ordered by the Court
  - c. Release Detained (Detain)
- (6) Pretrial Services Reports shall be typed and delivered to the Court prior to the defendant's arraignment.

E. Release Agreement

- (1) In accordance with California Penal Code Section 1318, all defendants released on Pretrial shall sign a Pretrial Services Contract (**Attachment F**):
- (2) Pretrial Services staff shall explain the points of the Pretrial Services Contract with the defendant, and answer any questions the defendant may have regarding the conditions of release. Pretrial Services staff shall ensure that the defendant signs the Pretrial Services Contract.

F. Monitoring and Supervision of Defendant Released on Pretrial – Pretrial Services staff shall carry out the following:

- (1) Monitor the Court appearances for all defendants that are released on Pretrial.
- (2) Contact all defendants interviewed by Pretrial Services staff and subsequently released with a reminder of their Court appearances. If possible, the defendant should be contacted by phone 2-3 days prior to their Court date.

- (3) Monitor the compliance of released defendants with assigned release conditions (Pretrial Services Contract).
- (4) Promptly inform the Court of facts concerning compliance or non-compliance that may warrant modification of release conditions and of any arrest of a person released pending trial.
- (5) Recommend modifications of release conditions when appropriate.
- (6) Maintain a record of the defendant's compliance with conditions of release.
- (7) Defendants who are Released on Pretrial shall report by telephone to the Pretrial Services staff a minimum of once every four weeks. Based upon the defendant's risk score or other individual factors, Pretrial Services staff may increase the reporting requirements on a case by case basis upon approval of a Supervising Deputy Probation Officer (SDPO).

G. Failures to Appear

- (1) A defendant who has been released on Pretrial and fails to appear in Court could be subject to a warrant of arrest, modification of release conditions, revocation of release, or an order of detention. In considering what actions to recommend, Pretrial Services staff shall take into account the seriousness of the violation, whether it appears to have been willful, or caused an increased risk to public safety.
- (2) Upon notification of a failure to appear, Pretrial Services staff shall attempt to notify the defendant that a bench warrant is either pending or has been issued. The Pretrial Services staff shall attempt to advise the defendant that he or she is responsible for contacting their attorney to resolve the matter.

H. Revocations

- (1) Defendants who have failed to comply with the Pretrial Services Contract may have their release on Pretrial revoked by the Court by completing a Revocation Report (Attachment G).
- (2) Requests for Court to revoke a defendant's release on Pretrial shall be reviewed with the SDPO prior to submission to the Court.
- (3) The Pretrial Services staff shall attempt to contact the defendant to inform them that their release on Pretrial has been revoked and that they should contact their attorney for instructions.

I. Defendant Confidentiality

- (1) Pretrial Services staff shall maintain confidentiality of pretrial participant records.

- (2) Information obtained during the course of the pretrial release investigation and during post-release supervision shall remain confidential, and shall not be disclosed unless authorized by this policy and California State / Federal laws that regulate the release of medical information (e.g., HIPAA – Health Insurance Portability and Accountability Act). Any disclosure of Pretrial Services information shall be limited to the minimum information necessary to carry out the purpose of such disclosure.
- (3) At the time of the initial interview, a defendant shall be clearly advised of the potential uses of the information offered so that he or she may make a voluntary decision on whether to participate in the pretrial release interview.
- (4) The Pretrial Services Report may be made available to the Court and to the Prosecutor and the Defense Counsel in the instant criminal action. Reports related to defendant compliance issues may be made available to the Court, the Prosecutor and the Defense Counsel.
- (5) Pretrial Release staff may disclose information under the following circumstances:
  - a. To the Court for the purposes of setting conditions of release, providing notification of Court appearances, or notifying the Court of violations of conditions of release, including orders of protection and failure to appear.
  - b. To service programs to which the defendant has been referred by the Court or the Pretrial Services staff, or to another pretrial program, provided the defendant consents to disclosure by signing the Information Release Consent form (**Attachment H**).
  - c. To law enforcement authorities, upon reasonable cause to believe that such information is necessary to assist in apprehending an individual for whom a warrant has been issued for failure to appear, or for the commission of a crime while on Pretrial release.
  - d. To a probation department for use in any court ordered investigation such as a pre-sentence report or to assist in the supervision of a pretrial defendant who is subsequently convicted and placed on probation.
  - e. To individuals or agencies designated by the defendant, upon specific written authorization from the defendant, (**Attachment H**).
- (6) In cases in which Pretrial Services staff have specific information leading to a good faith belief that the defendant intends to harm law enforcement authorities, particular individuals (e.g., victims), or the community at large, the staff shall inform the Court of the nature of the potential harm.

- (7) All contracts and written communications between Pretrial Services staff and individuals or organizations agreeing to provide supportive services for the custody or care of pretrial defendants must contain a nondisclosure clause. No person or public or private agency receiving information from Pretrial Services staff shall disclose such information, except as is necessary to accomplish the purpose for which such information was disclosed by the Pretrial Services staff.

4. **Data Collection and Reporting** – The Pretrial Services staff shall coordinate with the Court and Sheriff's Office in the gathering and reporting quarterly the following performance measures:

- A. **Universal Screening** – The percentage of defendants booked into County Jail who are eligible for assessment by this policy.
- B. **Recommendation Rate** – The percentage of time the Pretrial Services staff follow the risk assessment score ( Section D(3) ) when recommending release or detention.
- C. **Response to Defendant Non-Compliance** – The number of defendants who are terminated unsuccessfully due to conduct.
- D. **Number of Defendants Released by Release Type** – The number of release types ordered [Section 3.D(5)] .
- E. **Time on Pretrial Supervision** – Time between the Pretrial Services assumption of supervision of the defendant and the end of their supervision.
- F. **Appearance Rate** – The percentage of supervised defendants who make all scheduled court appearances.
- G. **Safety Rate** – The percentage of supervised defendants who are not charged with a new offense during their release on Pretrial.
- H. **Concurrence Rate** – The ratio of defendants whose Court release or detention decision corresponds with the recommendations of the Pretrial Services staff.
- I. **Success Rate** – The percentage of released defendants who:
  - (1) Are not terminated for technical violations of the conditions of their release, and
  - (2) Are not charged with a new offense during their Release on Pretrial

5. **Exceptions** Any exceptions to the provisions set forth in this policy shall require prior written approval from the Chief Probation Officer.