



To: Board of Supervisors
Date: August 5, 2008
From: Edward N. Bonner, Sheriff-Coroner-Marshall
Steve Pecor, Chief Probation Officer
Brad Fenocchio, District Attorney
Subject: Resolution to authorize expansion of Alternative Sentencing Programs

ACTION REQUESTED

Adoption of the attached Resolution authorizing expansion of alternative sentencing programs for the jail pursuant to Penal Code 4024.2, 4024.3, 1203.016 and 1203.017 regarding voluntary and mandatory work release and electronic monitoring in lieu of incarceration. These programs would have the potential when implemented to relieve jail overcrowding and thus increase the likelihood that sentenced inmates serve their entire sentence as ordered by the Court. The Resolution also designates the Sheriff-Coroner and the Chief Probation Officer as the joint correctional administrators for these programs working closely with the Superior Court, the District Attorney and the defense bar to implement the programs.

BACKGROUND

Senate Bill 959 was enacted as an urgency measure on September 26, 2007 to add Section 1203.017 to the Penal Code, to address jail overcrowding by supplementing existing law and establishing mandatory home detention and electronic monitoring for misdemeanants who are sentenced to the county jail. The provisions of this new law, combined with the provisions of Penal Code Section 4024.3 authorizing mandatory work release, enable a broad spectrum of alternative sentencing programming whenever the population at the jail exceeds 90% of capacity. Currently, inmates forego opportunities to participate in rehabilitative, alternative sentencing options due to awareness that jail over-crowding will likely preclude their having to serve their complete sentences. By allowing authorities to assign inmates to appropriate methods of serving their sentences these new provisions have the potential to eliminate the necessity to release inmates early, thereby increasing their personal accountability and enhancing public safety.

Historically, Placer County has administered voluntary alternative sentencing programs to which both felons and misdemeanants sentenced to county jail could apply and be

account for risks to public safety as well as to the provision of opportunities to participate in rehabilitative criminal justice programming. Inmates were motivated to avail themselves of this programming as a means of avoiding or reducing the amount of time they spent in confinement. In most instances, except when fees were waived based on ability to pay, there was a cost to participants associated with this programming. Participants who paid for the privilege of engaging in these rehabilitative programs tended to make the best of those opportunities. In the process, these programs generated a source of revenue to the county and ensured that limited jail space is available for higher risk offenders. However, participation in the voluntary programs under PC 4024.2 and 1203.016 does not provide sentence reduction credits, and thus serves as a disincentive for participation. Sections 4024.3 and 1203.017 are mandatory programs driven by jail overcrowding. They are available for sentenced inmates, allowing for sentence reduction credits which will encourage more participation.

The Placer County Main Jail and Minimum Security facilities have a combined Board Rated Capacity of 646 inmates. These facilities operate under a Federal Court Order mandating these facilities do not exceed 100 percent of capacity; to ensure this, the Order allows the Sheriff to begin releasing prisoners when either facility is within ten percent of capacity, or any unit of the Main Jail is within ten percent of its rated capacity¹. During Fiscal year 2007-08, there has not been one day when this condition did not exist. There has rarely been a day in which an inmate was not released pursuant to this Order, and if it occurred, it would have reflected a dip below 90 percent of capacity for a few hours during which classification officers evaluated the need to release. In every case it is believed and statistics reflect the jail facilities were within ten percent of capacity during every 24-hour day of the past fiscal year, and this has been the trend for the past eight calendar years.

The Placer County Sheriff books an average of 31 new arrests everyday into the Main Jail which is already within ten percent of capacity. Consequently, 31 inmates must be released from custody every day to make room for these new arrests. Some of these releases occur as inmates bail, or are released by the court; the remaining releases are made in compliance with the Federal Court Order. Since the implementation of the federal cap, the county jail has been required to release inmates on a more and more frequent basis due to jail over-crowding. As the jail over-crowding problem has grown, incentives to participate in alternative sentencing programs have decreased. The use of mandatory alternative sentencing effectively enables authorities to reverse this trend. Instead of releasing inmates without further sanction or supervision, authorities can

¹ "The Sheriff of Placer County is authorized by this Judgment to release or refuse to accept inmates into the jail facilities affected by this Judgment beginning whenever said facilities, or any one of them, is within ten percent of being filled to maximum capacity [. . .]" (Harris v County of Placer, No. CIV. S-90-394 LKK, Filed April 18, 1993, p. 4, line 10.).

"Specifically, with respect to the Main Jail the Sheriff is also authorized by this Judgment to release or refuse to accept inmates into identifiable units within the Main Jail whenever said identifiable unit is within ten percent of its specific BOC rated capacity; the Sheriff shall release, or refuse to accept, inmates into the identifiable units within the Main Jail whenever the identifiable unites are filled to capacity [. . .]" (Harris v County of Placer, No. CIV. S-90-394 LKK, Filed April 18, 1993, p. 4, line 18.).

determine who is to serve their sentence by remaining incarcerated and who is to serve their sentence by means of mandatory alternative sentencing. At the same time, existing voluntary alternative sentencing programs will continue operation according to established criteria, but there will be a greater demand for them. As they grow, the need for additional county jail space may be decreased or delayed.

The Criminal Justice Policy Committee comprised of representatives from the Superior Court, Public Safety agencies (the Sheriff's Office, the District Attorney and Probation), County Counsel, the County Executive's Office, Health and Human Services, the Contract Defense Bar and additional municipal and regional law enforcement entities have been reviewing the issues of jail overcrowding and lack of accountability for sentenced inmates. They have been seeking criminal justice system operational efficiencies and improvements that can be implemented today that will benefit the Criminal Justice System into the future. The goal is to provide alternative sentencing programs that will ensure accountability and that inmates serve the sentence imposed by the Courts. A secondary benefit to developing strong alternative sentencing programs is that the impacts to the Criminal Justice system will benefit by reducing the growing need for bed space now and in the future for our county jail system. By providing more accountability, tracking and monitoring of those serving their sentence rather than benefitting from an early release, there should also be a benefit to the District Attorney and Superior Courts resulting in reduced court time and recidivism. These factors will lead to reduced costs for our Criminal Justice System partners.

The Superior Courts and Criminal Justice partners are in support and committed to expanding the alternative sentencing programs through the implementation of PC 4024.2, 4024.3, 1203.016 and 1203.017. The Sheriff's Office and Probation Department will work closely together to identify the conditions within the jail to trigger these programs and the criteria for the inmates that qualify for the programs. There will be more choices for the Criminal Justice partners to ensure that an inmate can serve their sentence – time served in jail, in a work release program or by electronic monitoring. Your Board's approval of the Resolution authorizing the programs and designating the Sheriff and the Chief Probation Officer as joint correctional administrators is required to proceed. Your Board and the correctional administrators will also be required to review rules, regulations and policy administration on an annual basis.

FISCAL IMPACT

For FY 2008-09, total start-up costs are identified at \$708,137 of which \$422,798 is for one-time costs for remodeling the Day Reporting Center, acquiring and operating GPS equipment, expanding the PRIDE Industries contract for counseling services, up-front OPEB costs, and \$285,339 is for half year costs for five Deputy Probation Officer's and one Administrative Clerk. These costs are anticipated to be partially offset by \$250,000 in new fee revenues starting in January 2009 for FY 2008-09. As the program develops, it is anticipated that Revenue Services may need to bring forward a mid-year funding request for one new Collection Agent position to assist in program fee collections. Effective in FY 2009-10, ongoing staff and operating costs of approximately \$603,660 are anticipated to be offset by at least 50% with new fee revenues.

**Before the Board of Supervisors
County of Placer, State of California**

In the matter of: A resolution authorizing and designating the Sheriff-Coroner and Chief Probation Officer as joint correctional administrators of alternative sentencing programs under Penal Code 4024.2, 4024.3, 1203.016 and 1203.017

Resol. No: _____

Ord. No: _____

First Reading: _____

The Board of Supervisors of the County of Placer duly passed the following **Resolution** at a regular meeting held on **August 5, 2008**,

By the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:
Clerk of said Board

The Board of Supervisors of the County of Placer hereby resolves as follows:

WHEREAS, Section 4024.2 of the California Penal Code provides that the Board of Supervisors may authorize the Sheriff or other county official in charge of the county correctional facilities to operate a program under which any person committed to the facility can participate in a voluntary work release program and Section 1203.016 of the California Penal Code provides that the Board of Supervisors may authorize the correctional administrator to operate a program under which a person committed to the facility can participate in a voluntary home detention program through the use of electronic monitoring; and

WHEREAS, The Board of Supervisors have authorized the operation of voluntary programs for work release under Penal Code Section 4024.2 and for electronic monitoring under Penal Code Section 1203.016 and has designated the Chief Probation Officer as the correction administrator responsible for the operation of these programs; and

WHEREAS, Section 4024.3 of the California Penal Code provides that the Board of Supervisors, in a county which the average daily inmate population is 90 percent of the correctional facility's mandated capacity, may authorize the Sheriff or other county official in charge of the county correctional facilities to operate a program under which any person committed to the facility is required to participate in a work release program; and

WHEREAS, Section 1203.017 provides that if conditions exist in the county jail facility that necessitate the release of sentenced misdemeanor inmates prior to them serving the full amount of a given sentence due to lack of jail space that the Board of Supervisors is authorized to implement an involuntary home detention program; and

WHEREAS, Participants in the mandatory work release or home detention programs receive sentence reduction credits as time served in the correctional facility; and

WHEREAS, Conditions exist in Placer County's correctional facility that routinely necessitate the release of sentenced inmates prior to the their sentence being fully served;

WHEREAS, Placer County Criminal Justice Policy Committee and the Board of Supervisors recognize this as a growing problem in Placer County; and

WHEREAS, Penal Code 4024.3, as to sentenced misdemeanants and felons, and 1203.017, as to sentenced misdemeanants, provide alternative sentencing options which have the potential to relieve jail over-crowding thus increasing the likelihood that a sentence handed down by the Court is served to its completion.

WHEREAS, The Superior Court Judges and Criminal Justice Policy partners are in support and committed to the expansion of these alternative sentencing programs; and

NOW, THEREFORE, BE IT RESOLVED that the Placer County Board of Supervisors approves the implementation of both voluntary and mandatory alternative sentencing programs pursuant to Penal Codes 4024.2, 4024.3, 1203.016 and 1203.017.

IT IS FURTHER RESOLVED by this Board that the Sheriff and the Chief Probation Officer shall serve as joint correctional administrators only for the purposes of the programs defined in this resolution and shall prescribe reasonable rules and regulations and administrative policies for the operation of these alternative sentencing programs which will be reviewed by the Board on an annual basis.

