



**SAN MATEO COUNTY  
BOARD OF SUPERVISORS  
CRIMINAL JUSTICE COMMITTEE**

**Adrienne Tissier, Chair  
Mark Church, Vice-Chair**

David S. Boesch, Assistant County Manager  
Brenda Carlson, Chief Deputy County Counsel  
400 County Center, Redwood City, CA 94063  
650-363-4123

TO: Criminal Justice Committee

FROM: David S. Boesch, Assistant County Manager

SUBJECT: Criminal Justice Committee Meeting—Agenda for October 15, 2007

DATE: October 5, 2007

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**Meeting Date and Time:** October 15, 2007 at 11:30 a.m.

**Place:** Board Conference Room, Office of the Board of Supervisors  
First Floor, 400 County Center, Redwood City, California

1. Call to order
2. Oral Communications and Public Comment
3. Approval of the Minutes for the Criminal Justice Committee Meeting of September 10, 2007
4. Update on Senate Bill 959 (Romero) Inmate Home Detention—**Attachment I** (Mary McMillan, Intergovernmental Affairs)
5. Adjournment

*A COPY OF THE SAN MATEO CRIMINAL JUSTICE COMMITTEE AGENDA PACKET IS AVAILABLE FOR REVIEW AT THE CLERK OF THE BOARDS OFFICE, HALL OF JUSTICE, 400 COUNTY CENTER, FIRST FLOOR. THE CLERK OF THE BOARDS OFFICE IS OPEN MONDAY THRU FRIDAY 8 A.M. - 5 P.M., SATURDAY AND SUNDAY – CLOSED.*

*MEETINGS ARE ACCESSIBLE TO PEOPLE WITH DISABILITIES. INDIVIDUALS WHO NEED SPECIAL ASSISTANCE OR A DISABILITY-RELATED MODIFICATION OR ACCOMMODATION (INCLUDING AUXILIARY AIDS OR SERVICES) TO PARTICIPATE IN THIS MEETING, OR WHO HAVE A DISABILITY AND WISH TO REQUEST AN ALTERNATIVE FORMAT FOR THE AGENDA, MEETING NOTICE, AGENDA PACKET OR OTHER WRITINGS THAT MAY BE DISTRIBUTED AT THE MEETING, SHOULD CONTACT CHRISTINE HOLLENDER, CRIMINAL JUSTICE COMMITTEE CLERK, AT LEAST 2 WORKING DAYS BEFORE THE MEETING AT (650) 363-4123. AND/OR [chollender@co.sanmateo.ca.us](mailto:chollender@co.sanmateo.ca.us). NOTIFICATION IN ADVANCE OF THE MEETING WILL ENABLE THE COUNTY TO MAKE REASONABLE ARRANGEMENTS TO ENSURE ACCESSIBILITY TO THIS MEETING AND THE MATERIALS RELATED TO IT. ATTENDEES TO THIS MEETING ARE REMINDED THAT OTHER ATTENDEES MAY BE SENSITIVE TO VARIOUS CHEMICAL BASED PRODUCTS.*

*If you wish to speak to the Committee, please fill out a speaker's slip. If you have anything that you wish distributed to the Committee and included in the official record, please hand it to the Assistant County Manager who will distribute the information to the Supervisors and staff.*

Remaining Meetings for 2007: November 19 and December 10



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## **DRAFT ACTION MINUTES**

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**Meeting Date and Time:** September 10, 2007, 11:00 AM

**Place:** Board Conference Room, Office of the Board of Supervisors  
First Floor, 400 County Center, Redwood City, California

### **1. Call to order**

Committee Chair Adrienne Tissier called the meeting to order at 11:05 AM. Committee members Adrienne Tissier and Mark Church were present, as were the following individuals:

Gale Bataille, Health Services  
Peggy Jensen, County Manager's Office  
Nancy Guerrero, County Manager's Office  
David Boesch, County Manager's Office  
Brenda Carlson, County Counsel's Office  
Bob Foiles, Courts

Jaime D. Young, Public Safety Communications  
Liz Kauk, County Manager's Office  
Greg Munks, Sheriff's Office  
John Diagiaccinto, Private Defender's Office  
Juda Tolmasoff, Board of Supervisors

### **2. Oral Communications and Public Comment**

There was no member of the public who wished to speak.

### **3. Approval of the Minutes for the Criminal Justice Committee Meeting of July 9, 2007 - Attachment**

Committee approved the minutes.

### **4. Committee's Scope of Responsibilities (Brenda Carlson, County Counsel)**

A brief discussion was held to identify the topic matters that will and will not be discussed during the Criminal Justice meetings.

### **5. Juvenile Justice Reform (Loren Buddress, Probation Department)**

A working group comprised of all effected departments has been formed to analyze the County's impact resulting from Juvenile Justice Reform.

### **6. Proposition 36 Update (Gale Bataille, Health Department)**

Gail Bataille gave the committee an update on Proposition 36 funding and the financial implications on the County's ability to provide the current service levels in the future as a result of flat funding dating back to 2001.

**7. MIOCR Grant (Gale Bataille, Health Department)**

Gale Bataille gave an update on the MIOCR Grant, a State grant that ensures funding for intensive treatment and support programs for women that are in the jail system and participate in the Pathways for Women program. Funding is secure through the end of the current fiscal year with a possible three-month extension that ends September 2008.

**8. 911 Wireless Update (Jaime Young, Public Safety Communications) - *Attachment***

Jaime Young gave an update on the 911 project that will allow Public Safety Communications to answer wireless 911 calls received by cell towers located within the County, the significant problems and improvements that will result from the change.

**9. Adjourn**

Meeting adjourned at 11:35 AM. **The next meeting is scheduled for October 15, 2007 at 11:30 AM.**



## SAN MATEO COUNTY COUNTY MANAGER'S OFFICE

Date: October 10, 2007

To: Criminal Justice Committee  
From: Mary McMillan, Deputy County Manager  
Subject: Jail Overcrowding: Senate Bill 959 (Chapter 252, Statutes of 2007)

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The governor recently signed Senate Bill 959, a measure by Senator Gloria Romero, chair of the Senate Public Safety Committee. The bill, which went into affect as an urgency measure upon being signed into law, gives boards of supervisors a new and potentially effective tool to address jail overcrowding without imperiling public safety.

Senate Bill 959 permits a county board of supervisors to authorize a county correctional administrator (defined as the sheriff, probation officer or director of the county department of corrections) to require that county inmates committed to a county jail or other county correctional facility or granted probation, or inmates participating in work furlough programs participate in **involuntary** home detention when the administrator has determined that conditions in such a facility warrant the necessity of releasing **sentenced** misdemeanor inmates prior to them serving the entirety of their sentences due to lack of jail space.

Under the provisions of the new law, the involuntary home detention program authorized by a county must include electronic monitoring, during the duration of one's sentence in lieu of confinement in a jail or other county correctional facility or program under the auspices of the county probation officer.

The measure also provides that a county board of supervisors may prescribe reasonable rules and regulations for the operation of an involuntary home detention program. The bill lists specific rules and regulations for the program but does not limit boards of supervisors to the lists; and outlines the conditions or circumstances, under which the correctional administrator may, without an order of the court, retake an individual into custody to serve the balance of his or her sentence.

SB 959 provides that a board of supervisors may authorize the correctional administrator to contract with an appropriate public or private agency for the administration of the program.

The measure does not provide state funding for any county that opts to implement an involuntary detention program.

Finally, SB 959 provides that the correctional administrator is not required to allow an individual to participate in the program if it appears from the individual's record that he or she has not satisfactorily complied with reasonable rules and regulations while in custody. Indeed, under the

bill's provisions, a person shall be eligible to participate in the program only if the correctional administrator concludes that the person meets the criteria for release and that the person's participation is consistent with any reasonable rules and regulations prescribed by the board of supervisors or the administrative policy of the correctional administrator.

**Senate Bill No. 959**

CHAPTER 252

An act to add Section 1203.017 to the Penal Code, relating to involuntary home detention, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 2007. Filed with  
Secretary of State September 26, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

SB 959, Romero. Involuntary home detention.

Existing law establishes a voluntary home detention program where participants are subject to electronic monitoring, as specified.

This bill would establish an involuntary home detention program, under which participants would be electronically monitored, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1203.017 is added to the Penal Code, to read:

1203.017. (a) Notwithstanding any other provision of law, upon determination by the correctional administrator that conditions in a jail facility warrant the necessity of releasing sentenced misdemeanor inmates prior to them serving the full amount of a given sentence due to lack of jail space, the board of supervisors of any county may authorize the correctional administrator to offer a program under which inmates committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, may be required to participate in an involuntary home detention program, which shall include electronic monitoring, during their sentence in lieu of confinement in the county jail or other county correctional facility or program under the auspices of the probation officer. Under this program, one day of participation shall be in lieu of one day of incarceration. Participants in the program shall receive any sentence reduction credits that they would have received had they served their sentences in a county correctional facility.

(b) The board of supervisors may prescribe reasonable rules and regulations under which an involuntary home detention program may operate. The inmate shall be informed in writing that he or she shall comply with the rules and regulations of the program, including, but not limited to, the following rules:

(1) The participant shall remain within the interior premises of his or her residence during the hours designated by the correctional administrator.

(2) The participant shall admit any peace officer designated by the correctional administrator into his or her residence at any time for purposes of verifying the participant's compliance with the conditions of his or her detention.

(3) The use of electronic monitoring may include global positioning system devices or other supervising devices for the purpose of helping to verify his or her compliance with the rules and regulations of the home detention program. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the participant and the person supervising the participant which is to be used solely for the purposes of voice identification.

(4) The correctional administrator in charge of the county correctional facility from which the participant was released may, without further order of the court, immediately retake the person into custody to serve the balance of his or her sentence if the electronic monitoring or supervising devices are unable for any reason to properly perform their function at the designated place of home detention, if the person fails to remain within the place of home detention as stipulated in the agreement, or if the person for any other reason no longer meets the established criteria under this section.

(c) Whenever the peace officer supervising a participant has reasonable cause to believe that the participant is not complying with the rules or conditions of the program, or that the electronic monitoring devices are unable to function properly in the designated place of confinement, the peace officer may, under general or specific authorization of the correctional administrator, and without a warrant of arrest, retake the person into custody to complete the remainder of the original sentence.

(d) Nothing in this section shall be construed to require the correctional administrator to allow a person to participate in this program if it appears from the record that the person has not satisfactorily complied with reasonable rules and regulations while in custody. A person shall be eligible for participation in a home detention program only if the correctional administrator concludes that the person meets the criteria for release established under this section and that the person's participation is consistent with any reasonable rules and regulations prescribed by the board of supervisors or the administrative policy of the correctional administrator.

(1) The rules and regulations and administrative policy of the program shall be written and reviewed on an annual basis by the county board of supervisors and the correctional administrator. The rules and regulations shall be given to or made available to any participant upon request.

(2) The correctional administrator, or his or her designee, shall have the sole discretionary authority to permit program participation as an alternative to physical custody. All persons referred or recommended by the court to participate in the home detention program pursuant to subdivision (c) who are denied participation or all persons removed from program participation shall be notified in writing of the specific reasons for the denial or removal.

The notice of denial or removal shall include the participant's appeal rights, as established by program administrative policy.

(e) The court may recommend or refer a person to the correctional administrator for consideration for placement in the home detention program. The recommendation or referral of the court shall be given great weight in the determination of acceptance or denial. At the time of sentencing or at any time that the court deems it necessary, the court may restrict or deny the defendant's participation in a home detention program.

(f) The correctional administrator may permit home detention program participants to seek and retain employment in the community, attend psychological counseling sessions or educational or vocational training classes, or seek medical and dental assistance. Willful failure of the program participant to return to the place of home detention not later than the expiration of any period of time during which he or she is authorized to be away from the place of home detention pursuant to this section and unauthorized departures from the place of home detention are punishable as provided in Section 4532.

(g) As used in this section, "correctional administrator" means the sheriff, probation officer, or director of the county department of corrections.

(h) (1) Notwithstanding any other law, the correctional administrator shall provide the information specified in paragraph (2) regarding persons on involuntary home detention to the Corrections Standards Authority, and upon request, shall provide that information to the law enforcement agency of a city or unincorporated area where an office is located to which persons on involuntary home detention report.

(2) The information required by paragraph (1) shall consist of the following:

(A) The participant's name, address, and date of birth.

(B) The offense committed by the participant.

(C) The period of time the participant will be placed on home detention.

(D) Whether the participant successfully completed the prescribed period of home detention or was returned to a county correctional facility, and if the person was returned to a county correctional facility, the reason for that return.

(E) The gender and ethnicity of the participant.

(3) Any information received by a police department pursuant to this subdivision shall be used only for the purpose of monitoring the impact of home detention programs on the community.

(i) It is the intent of the Legislature that home detention programs established under this section maintain the highest public confidence, credibility, and public safety. In the furtherance of these standards, the following shall apply:

(1) The correctional administrator, with the approval of the board of supervisors, may administer a home detention program pursuant to written contracts with appropriate public or private agencies or entities to provide specified program services. No public or private agency or entity may operate a home detention program in any county without a written contract with

that county's correctional administrator. However, this does not apply to the use of electronic monitoring by the Department of Corrections and Rehabilitation as established in Section 3004. No public or private agency or entity entering into a contract may itself employ any person who is in the home detention program.

(2) Program acceptance shall not circumvent the normal booking process for sentenced offenders. All home detention program participants shall be supervised.

(3) (A) All privately operated home detention programs shall be under the jurisdiction of, and subject to the terms and conditions of the contract entered into with, the correctional administrator.

(B) Each contract shall include, but not be limited to, all of the following:

(i) A provision whereby the private agency or entity agrees to operate in compliance with any available standards promulgated by state correctional agencies and bodies, including the Corrections Standards Authority, and all statutory provisions and mandates, state and county, as appropriate and applicable to the operation of home detention programs and the supervision of sentenced offenders in a home detention program.

(ii) A provision that clearly defines areas of respective responsibility and liability of the county and the private agency or entity.

(iii) A provision that requires the private agency or entity to demonstrate evidence of financial responsibility, submitted and approved by the board of supervisors, in amounts and under conditions sufficient to fully indemnify the county for reasonably foreseeable public liability, including legal defense costs, that may arise from, or be proximately caused by, acts or omissions of the contractor. The contract shall provide for annual review by the correctional administrator to ensure compliance with requirements set by the board of supervisors and for adjustment of the financial responsibility requirements if warranted by caseload changes or other factors.

(iv) A provision that requires the private agency or entity to provide evidence of financial responsibility, such as certificates of insurance or copies of insurance policies, prior to commencing any operations pursuant to the contract or at any time requested by the board of supervisors or correctional administrator.

(v) A provision that permits the correctional administrator to immediately terminate the contract with a private agency or entity at any time that the contractor fails to demonstrate evidence of financial responsibility.

(C) All privately operated home detention programs shall comply with all appropriate, applicable ordinances and regulations specified in subdivision (a) of Section 1208.

(D) The board of supervisors, the correctional administrator, and the designee of the correctional administrator shall comply with Section 1090 of the Government Code in the consideration, making, and execution of contracts pursuant to this section.

(E) The failure of the private agency or entity to comply with statutory provisions and requirements or with the standards established by the contract

and with the correctional administrator may be sufficient cause to terminate the contract.

(F) Upon the discovery that a private agency or entity with whom there is a contract is not in compliance pursuant to this paragraph, the correctional administrator shall give 60 days' notice to the director of the private agency or entity that the contract may be canceled if the specified deficiencies are not corrected.

(G) Shorter notice may be given or the contract may be canceled without notice whenever a serious threat to public safety is present because the private agency or entity has failed to comply with this section.

(j) Inmates participating in this program shall not be charged fees or costs for the program.

(k) For purposes of this section, "evidence of financial responsibility" may include, but is not limited to, certified copies of any of the following:

- (1) A current liability insurance policy.
- (2) A current errors and omissions insurance policy.
- (3) A surety bond.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to help relieve jail overcrowding and ensure inmates are serving full sentences to the extent practicable, it is necessary that this act take effect immediately.

O