

<b>DATE:</b>	APRIL 29, 2022
<b>NUMBER:</b>	E.3
<b>SUBJECT:</b>	HOME DETENTION AND RRC/WF CRITERIA
<b>RELATED SECTIONS:</b>	P.C. 1170.06, 1203.016 - 1203.018, 1208 & DSB P&P N.1

## PURPOSE

To assess and determine the eligibility of applicants for placement in the Home Detention (HD) and/or Residential Reentry Center (RRC)/Work Furlough (WF) programs with global positioning system (GPS) electronic monitoring.

## POLICY

Incarcerated persons currently in the custody of the San Diego County Sheriff's Department and court-referred applicants may be screened for participation in HD or RRC/WF. All County Parole and Alternative Custody (CPAC) participants are approved to complete their court ordered sentences in the community. CPAC participant residences may include RRC/WF, residential treatment programs or any other CPAC approved residence.

CPAC deputies are the only personnel authorized to determine eligibility for the program. Participant eligibility will be considered on a case-by-case basis.

## PROCEDURE

### I. INELIGIBILITY

Applicants who are within the following categories are not eligible for placement in a CPAC program. Ineligibility determinations may not be grieved.

- A. Incarcerated persons/defendants who are given a "split sentence," pursuant to 1170(h)(5), that includes a term of mandatory supervision following a term of custody.
- B. Incarcerated persons/defendants who are subject to Post Release Community Supervision (PCRS) (Penal Code section 3500 et seq.).
- C. Incarcerated persons on active federal/state parole or other forms of supervision.
- D. Documented prison gang members.
- E. Sentenced incarcerated persons who have been precluded from participating in the program by the court.
- F. Incarcerated persons/defendants who were convicted and sentenced by an out-of-county court.
- G. Convicted incarcerated persons/defendants who have other pending charges, detainers, or active bookable warrants.

- H. Incarcerated persons/defendants who have been charged with or convicted of any of the following offenses or related subsections:
1. Murder PC 187
  2. Manslaughter PC 192(a)
  3. Vehicle Manslaughter PC 191.5, 192(a)(1), and 192(c)(3)
  4. Mayhem PC 203 and 205
  5. Kidnapping PC 207, 208 and 209
  6. ADW on a Peace Officer PC 245(c) and 245(d)
  7. Arson PC 451
  8. Grand theft firearm PC 487(d)(2)
  9. Any of following sex offenses: PC 220, 261, 261.5, 264.1, 286(c), 286(d), 288, 288.5, 289(a), 311-312.3.
    - a. Any sex offense wherein the victim or presumed victim is/was under 18 years of age.
    - b. Current crimes which require registration under PC 290. (PC 290.018 may be eligible on a case-by-case basis as determined by CPAC.)
  10. Any of following violent crimes: PC 12022(b), 12022.5, and 12022.7
  11. Incarcerated persons pursuant 1170.06(d) who meet the following criteria:
    - a. The applicant screened by a validated risk assessment tool is determined to pose a high risk to commit a violent offense.
    - b. The applicant has a history, within the last 10 years of escape from a facility while under juvenile or adult custody, including but not limited to, any detention facility, camp, jail, or state prison facility.
    - c. The applicant has a current or prior conviction for an offense that requires the applicant to register as a sex offender.

## II. ELIGIBLE APPLICANTS

The following may be considered for Home Detention:

- A. Sentenced in-custody incarcerated person (self-referral) including incarcerated persons who are 1170(h)(5)(A) (straight local sentence) commits. They may be considered for participation when they have a minimum of 20 days left on their sentence and may be reviewed when they have 365 days or less left to serve on their sentence.
- B. Court Referred:

1. Pretrial HD.
2. Presentenced (defined as the court is requesting a prescreen review to see if a defendant qualifies for any CPAC program).
3. Sentenced (in or out of custody).

### III. HOME DETENTION PROCESS

The following details the process for varied eligible CPAC applicants:

- A. Submit CPAC Electronic Monitoring application (J-142 form)
  1. Court Referred applicants
    - a. Out of custody applicants must submit their CPAC application (J-142 form) and their sentencing court minute order, to the CPAC unit within 14 business days of their report to custody date.
    - b. For in custody applicants, J-142 forms shall be reviewed within 14 business days after being received by the CPAC unit.
  2. Court Referred Pre-sentenced applicants
    - a. Out of custody applicants must submit a J-142 form and the court minute order within 14 business days of their pre-hearing sentencing date.
    - b. For in custody applicants, J-142 forms shall be reviewed within 14 business days after being received by the CPAC unit.
  3. Sentenced in custody incarcerated persons (self- referred) must submit J-142 form via the detention facilities correctional counselors. Applications will be reviewed for eligibility by CPAC deputies. Incarcerated persons will be notified if denied for CPAC.
- B. Applicants/Incarcerated persons must agree to program supervision requirements, all CPAC rules and regulations (J-148 form), submit to routine drug testing, submit to alcohol testing if necessary and wear an electronic monitoring device.
- C. Applicants/Incarcerated persons must be sentenced to serve a minimum of 96 hours in San Diego County to qualify for HD.
- D. Applicants/Incarcerated persons must have a verified place of residence or accept placement into appropriate housing as determined by CPAC staff (refer to section V of this policy).

### IV. RRC/WF PROCESS

CPAC supervisors will generate a potential candidate list monthly. CPAC deputies will review the list to identify any qualified participants.

A. Submit a J-142 form

1. Court Referred applicants

- a. Out of custody applicants must submit their J-142 form and their sentencing court minute order to the CPAC unit within 14 business days of their report to custody date.
- b. For in jail custody applicants, the J-142 form shall be reviewed within 14 business days after being received by the CPAC unit.

2. Court Referred Pre-sentenced applicants

- a. Out of custody applicants must submit a J-142 form and the court minute order within 14 business days of their pre-hearing sentencing date.
- b. For in custody applicants, the J-142 form shall be reviewed within 14 business days after being received by the CPAC unit.

3. Sentenced in custody incarcerated persons (self-referred) must submit a J-142 form via the detention facilities correctional counselors. Applications will be reviewed for eligibility by CPAC deputies. Incarcerated persons will be notified if denied for CPAC.

B. Incarcerated persons must agree to program supervision requirements, all CPAC rules and regulations (J-166 form), submit to routine drug testing, submit to alcohol testing if necessary and wear an electronic monitoring device.

C. Incarcerated persons must not have any medical condition that prevents them from either programming or working.

D. Incarcerated persons must have a minimum of 20 days left on their sentence. Incarcerated persons who are 1170(h)(A) (straight local sentence) may be reviewed when they have a maximum of 90 days left on their sentence to serve.

V. RESIDENCE ELIGIBILITY CRITERIA

CPAC staff will complete a residence check to ensure it is suitable. An eligible participant must reside at an approved location that meets the following criteria:

- A. Unfettered access to the residence for CPAC staff to conduct random, unannounced home checks.
- B. Working utilities, specifically electricity. A hardline telephone is not required unless the residence is in an area where cell phone coverage is absent.
- C. No firearms, alcohol, or illegal drugs may be used/possessed by the participant in the residence during the incarceration period.

- D. The global positioning system (GPS) device must be able to transmit and receive a signal to provide an accurate and consistent location from their residence.
- E. A signed Cohabitant Acknowledgement (J-144 form) must be completed by all persons, 18 years and older, who will be living at the participant's residence. Cohabitants that are active state or federal parolees, mandatory supervision probationers and or documented gang members may preclude the participant from living at the residence.
- F. A Consent to Search (SO-135 form) must be signed by the applicant or legal resident prior to residence check. Failure to sign the SO-135 form will be grounds to deny the applicant for HD. The consent to search pertains to the participant's living areas and common areas of the residence as well as vehicles or items under the participant's control.

## VI. APPLICANT SCREENING PROCESS

CPAC staff shall complete a comprehensive criminal and personal background check on all applicants and review, at a minimum, the following:

- A. SD Law Reports to include, but not limited to the following:
  - 1. Criminal History Databases (State and Federal).
  - 2. Department of Motor Vehicles Databases.
  - 3. Temporary Restraining Order Databases.
- B. Jail Information Management System (JIMS) Incident Reports
- C. Court Case Documentation
- D. Arrest and criminal reports
- E. Incarcerated person's family and community structure
- F. Prior treatment program participation
- G. Probation Reports (Pre-Sentenced Reports)
- H. All applicants shall have a risk assessment completed.
  - 1. A full risk assessment shall be completed on any applicant serving more than 30 days in HD. It will be completed by the Pretrial Services (PTS) unit, but the CPAC staff shall assist when necessary.
  - 2. A basic risk assessment shall be completed on any applicant serving less than 30 days in HD and will be completed by CPAC staff.
  - 3. Incarcerated persons/defendants sentenced under 1170(h) to a straight term and the risk assessment tool determines them a high risk for violence are not eligible to participate per California Penal Code section 1170.06(d)(1).

- I. A Domestic Violence Screening Instrument (DVSII) shall be completed on applicants whose criminal history reveals the following:
  - 1. Any instance of domestic violence where a valid protection order is in effect. The protection order may preclude participation in the CPAC program.
  - 2. Current domestic violence charge(s).
  - 3. Domestic violence incidents and/or a recent pattern of domestic violence incidents within the past five years.
- J. When feasible, CPAC deputies will notify domestic violence victims of the applicant's acceptance into the CPAC program and provide domestic violence resources to the victim if requested.
- K. Any applicant whose criminal history reveals an arrest or conviction for sex offenses to include sexual assault, lewdness, indecent exposure, or child-victim crimes, shall be generally ineligible for the program, unless an exception is appropriate, based on the severity of the crime and the passage of time from the date of the offense. The CPAC deputy recommending the exception shall submit written documentation in the program case file to be reviewed by the CPAC chain of command regarding the exception.

## VII. APPROVAL PROCESS

- A. CPAC deputies will submit all applicant recommendation files for HD or RRC/WF to the CPAC sergeants for review. The CPAC sergeants will review all documents in the applicant's file to approve CPAC participation or denial.
- B. All recommended applicants who score a "High" on their risk assessment for violence will be reviewed for CPAC participation approval or denial by the CPAC lieutenant or designee.

## VIII. DENIAL AND APPEAL PROCESS

- A. All out of custody and in jail custody court referred applicants who are denied CPAC program participation will be reviewed through the CPAC chain of command to the rank of lieutenant.
  - 1. The CPAC deputy shall provide written rationale to the CPAC sergeant as to why they do not recommend the applicant.
  - 2. If the CPAC sergeant or designee concurs with the deputy's assessment they will deny the applicant and forward the applicant's file to the CPAC lieutenant or designee for final decision.
- B. Non-court referred in jail custody applicants for HD will be notified in writing and informed of the grievance process. After the jail custody applicant is denied and informed of the denial, they may submit a grievance in compliance with DSB P&P section N.1. If the incarcerated person disagrees with the grievance decision of the CPAC sergeant, the

incarcerated person may file a third level appeal to the CPAC lieutenant who shall respond within 10 calendar days as outlined in DSB P&P section N.1.

- C. Out of custody applicants cannot grieve the denial.
- D. Court referred prescreen applicants will be informed of the denial utilizing the Prescreen Notification CPAC (J-167 form) issued to the court.

#### IX. INCOMPLETE APPLICATION PROCESS

If the court referred applicant fails to complete the CPAC application process before their report date due to their own inaction, the applicant will be notified by CPAC staff to report to jail custody, as stated on their court order. These applicants will have no course of appeal for their denial.

- A. These applicants can reapply for any CPAC program after they are in custody.
- B. The incident will be documented in a JIMS Incident Report under "HDR" and approved by a CPAC supervisor.
- C. If necessary, a letter can be sent to the court identifying the reason for the denial.

#### X. PROGRAMMING

Any participant sentenced and approved for CPAC participation with over 30 days left on their sentence to serve, will have a case plan developed by the Correctional Counselors.

- A. The case plan will consist of assigned classes the participant will be required to attend and complete while in the CPAC program.
- B. The classes are assigned based on the participant's "needs" which is determined by their risk assessment.