

# ALTERNATIVE TO CONFINEMENT

## 900.1 ALTERNATIVE TO CONFINEMENT

The Alternative to Confinement policy seeks to maximize custody bed space through alternative custody programs for eligible inmates. These programs consist of the Community Work Program, the Conservation Camp, and the Electronic Monitoring Program.

These programs are authorized under California Penal Code (CPC) sections 1203.017, 1203.018, 2057, 4024.2, 4024.3, and Orange County Board of Supervisors' Resolutions 82-553, 12-137, and 14-064.

## 900.2 COMMUNITY WORK PROGRAM

Per California Penal Code section 4024.3 and Board Resolution No. 14-064, the Sheriff is authorized to have a Community Work Program (CWP) for qualified inmates when the average daily inmate population is 90 percent of the jail system's rated capacity. The average daily jail population is the average total number of inmates computed on an annual basis.

If the average daily inmate population is below 90 percent of the jail system's rated capacity, California Penal Code section 4024.2 and Board Resolution No. 82-553 authorize the Sheriff to have a Community Work Program for qualified inmates.

Board Resolution 14-064 authorized an administrative fee of \$90 to be charged to participating inmates. The authority to collect these fees as provided in CPC 4024.2(e) and CPC 4024.3(f) has been repealed as of July 1, 2021. Administrative fees are no longer collectable.

Inmates who participate in CWP will serve their sentences by performing manual labor, in lieu of confinement, on the public works or ways. Any inmate who is not able to perform manual labor because of a medical condition, physical disability, or age, may participate in a work release program involving any other type of public sector work that is designated and approved by the Sheriff or the Sheriff's designee.

Any violation of law or work program rules may be handled in the following manner:

- (a) Minor Violation (informal reprimand punishable by counseling or denial of privileges).
- (b) Major Violation (written jail incident report including a disciplinary hearing, punishable by loss of privileges, loss of good time, removal from CWP, and/or placement in Special Management Unit).
- (c) Discharge from worksite by worksite supervisor with no work credit received for the day.
- (d) Removal from Community Work Program and return to custody. Removal from CWP will be documented in the CWP Portal.
- (e) Citation.
- (f) Crime Report.

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Inmates may use the jail grievance process to grieve a condition in, or their removal from, the work program. Inmates assigned to CWP will be provided an inmate grievance form as soon as possible when requested.

### 900.2.1 REQUIREMENTS FOR PARTICIPATION

Inmates in all facilities will be screened for program qualification. Inmates to be screened fall into two categories:

- (a) Weekenders
- (b) Straight time inmates: Includes all inmates with commitments of more than five (5) days and no more than three hundred and sixty-five (365) days, to their release date.

The court may restrict or deny a person's eligibility for the program, but the courts cannot require the Sheriff to assign a person to the program if the Sheriff or the Sheriff's assigned CWP staff has concluded that the person is unfit for release to the program.

Inmates assigned to CWP will perform eight (8) to ten (10) hours of labor in lieu of one day of confinement. Inmates who participate in CWP are eligible for good time/work time credit under CPC 4019.

With supervisor approval, inmates residing out-of-county may be assigned to CWP. This exception will be based on the inmate's ability to report to the worksite.

Various forms of information are used while screening inmates for CWP. This information may include but is not limited to the following:

#### 1. Current/Prior charges:

- i. Any inmate currently arrested for, or previously convicted of, a serious or violent felony as defined in CPC 1192.7(c) and CPC 667.5(c) will be disqualified.
- ii. Any inmate currently required to register as a sex offender pursuant to CPC 290 will be disqualified.
- iii. Any inmate currently charged for sex-related offenses not specified under CPC 290 will be disqualified.
- iv. Any inmate currently arrested for, or previously convicted of, CPC 136.1 where punishment is imposed pursuant to subdivision (c) of section 136.1, Section 262, 273.5, or 422 where the offense is punished as a felony, or Section 646.9, will be disqualified.
- v. Any inmate currently arrested for CPC 243(e)(1), or CPC 273.6 will be disqualified.
- vi. Any inmate currently arrested for, or previously convicted of, any of the following violations will be disqualified – CPC 653f, 245(a)(4), 210.5, 273.5, 140, 148.10, 422.7, 368(b), 289(b), (d) or (e), 286(f), (g) or (i), 288a(f), (g) or (i), 267, 236.1(a), (b) or (c), 273(a), 18740.

#### 2. Interview of inmate (one on one in-person interview)

#### 3. Criminal history/sophistication

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- i. Any inmate who, based on their classification interview, was classified as a GP-4 or higher will be disqualified.
  - ii. Any inmate who, despite having met the criteria specified in subsection (1), is determined by CWP staff to have a criminal history which precludes his/her participation in the program may be disqualified.
    - (a) Additional factors which may lead to disqualification include but are not limited to past arrests for serious/violent felonies, documented history of gang membership, participation in jail/prison politics or past failure to complete work programs. Any disqualification based on these additional factors must be approved by the CWP Sergeant.
4. Personal references (two CA residence references not living in the same household).
  5. Overall background (criminal records, institutional behavior).
  6. Means of transportation (likelihood of reporting to a worksite and on time based on license status).

The same disqualifying factors are used for Weekender inmates as are set for straight time inmates; however, only current booking charges are taken into consideration.

Medical clearance is a requirement prior to being released to either the CWP or Weekender programs.

### 900.2.2 INJURIES

A medical aid report is required for all inmate injuries, minor, significant or serious.

### 900.2.3 REMOVAL FROM CWP

Examples of reasons for removal from the Community Work Program include but are not limited to:

- (a) Repeated no-shows
- (b) Poor work performance
- (c) Violation of rules
- (d) Creating a disturbance at the worksite
- (e) Warrant
- (f) Significant physical injury
- (g) Inability to report to work
- (h) Voluntary removal

Unless the court has issued an arrest warrant for retaking the person into custody, all non-voluntary returns to custody must be accompanied by an "Order to Retake Community Work Program Participant into Custody" signed by the Sheriff, the Sheriff's designee, or the Special Services Bureau Captain as required by CPC 4024.2(c)(2) and CPC 4024.3(c)(3).

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### **900.3 CONSERVATION CAMP**

Pursuant to CPC 2057, the County of Orange and the California Department of Corrections and Rehabilitation (CDCR) have entered into an agreement authorizing the Sheriff-Coroner to permit County inmates to voluntarily participate in the CDCR Fire Camp Program.

Qualified inmates will serve their sentences by participating in the Conservation Camp Program (CCP) at designated California Department of Corrections and Rehabilitation (CDCR) Fire Camps.

Only previously screened and approved inmates may participate in the Conservation Camp Program. The CDCR shall confine and supervise adult male and female inmates who are transferred to the Conservation Camp Program pursuant to the terms and conditions of the contract between Orange County and the CDCR.

The inmates assigned to a CDCR Fire Camp will be confined and supervised in accordance with CDCR policies. The CDCR shall provide security and supervision of Orange County inmates consistent with CDCR policies.

Orange County inmates shall be subjected to an initial intake and annual program review to be conducted by the respective Camp Administrative Office to confirm initial and continued Fire Camp placement are appropriate.

All inmates assigned to the Conservation Camp Program shall participate in the Fire Camp programs, firefighter training, in-camp work assignments, and work at the Fire Camp, unless otherwise medically or administratively precluded. Inmates who refuse to participate in the Fire Camp Work/Training Program shall be returned to the Intake Release Center (IRC).

#### **900.3.1 REQUIREMENTS FOR PARTICIPATION**

After sentencing, inmates will be screened for participation in the Conservation Camp Program.

Male and female inmates must have at least six (6) months, but no more than five (5) years to serve on their sentence (projected at a two-for-one credit earning). Any sentencing outside of these parameters must be approved by the CDCR.

The court may restrict or deny a person's eligibility for the program, but the courts cannot require the Sheriff to assign a person to the program if the Sheriff, the CDCR, or the Conservation Camp Deputy has determined that the person is unfit to participate in the program.

#### **900.3.2 CDCR EXCLUSIONARY CRITERIA**

The Conservation Camp Deputy shall use various forms of information while screening inmates for the Conservation Camp Program. Disqualifying factors shall include the following:

- (a) Length of sentence:
  1. Less than six (6) months, excluded from program
  2. More than five (5) years, excluded from program

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- (b) Charges:
  - (a) Any charges under CPC 667.5 (violent felony)
  - (b) Any charges under CPC 1192.7 (serious felony)
- (c) If the inmate meets any of the CDCR's exclusionary criteria, the inmate is excluded from the program

### 900.3.3 MEDICAL/MENTAL HEALTH/DENTAL SCREENING

If the Conservation Camp Deputy determines that the inmate is eligible after the inmate's criminal history screening and interview, Correctional Health Services (CHS) staff shall conduct a physical examination of the inmate to recommend or deny participation in the Conservation Camp Program. CHS staff will use CDCR eligibility criteria; however, even if the inmate meets CDCR eligibility, CHS may deny an inmate's participation in the Conservation Camp Program based on the inmate's medical and/or mental health condition and/or history.

### 900.3.4 CONSERVATION CAMP REMOVAL OR RETURN OF INMATES

Inmates may be returned to the Orange County Jail for several reasons. Some examples of reasons for removing inmates from the Conservation Camp Program include but are not limited to:

- (a) Sentence ending
- (b) Poor work performance
- (c) Violation of conservation camp rules
- (d) Additional disqualifying charges
- (e) Conservation camp supervisor recommendation
- (f) Significant physical injury
- (g) Voluntary removal
- (h) Local/state/federal court appearances

The Orange County Sheriff's Department is responsible for transportation and costs thereof for local, state and federal court appearances. If sufficient advanced notice is provided, the CDCR will transport the inmate(s) to the designated Fire Camp to be picked up by Sheriff's Transportation.

### **900.4 ELECTRONIC MONITORING PROGRAM**

Board of Supervisors' Resolution 12-137 authorizes home detention Electronic Monitoring Programs in accordance with Penal Code Sections 1203.017 and 1203.018 and the adopted rules and regulations governing the programs.

CPC Sections 1203.017 and 1203.018 authorize the Sheriff as the Correctional Administrator to establish an electronic monitoring program for both sentenced and unsentenced inmates under certain conditions. Under CPC 1203.017, sentenced misdemeanor inmates may be required to participate in an involuntary home detention program that includes electronic monitoring, due to lack of adequate jail space. Under CPC 1203.018, unsentenced misdemeanor inmates may voluntarily participate in a home detention program that includes electronic monitoring. Inmates

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must meet specific criteria before consideration. Although CPC 1203.018 includes unsentenced felony inmates, Board Resolution 12-137 limits the participants to unsentenced misdemeanor inmates.

The Sheriff or Sheriff's designee shall have the sole discretionary authority, consistent with the statutes and the rules and regulations of the electronic monitoring program, to review and determine eligibility to permit program participation as an alternative to physical custody.

Failure of program participants to comply with the established rules and regulations of the Electronic Monitoring Program may result in the program participant being retaken into custody. Willful failure of the program participant to return to the place of home detention prior to the expiration of any period during which he or she is authorized to be away from the place of home detention and unauthorized departures from the place of home detention are punishable as provided in CPC 4532.

The Sheriff may permit Electronic Monitoring 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.

Any violation of law or rules and regulations of the program may be handled in the following manner:

- (a) Report of violation of rules and regulations of the program
- (b) Crime report

Violations of the rules and regulations of the program will be documented in the jail reporting system. Sanctions may be imposed for violations of the rules and regulations of the program, including retaking the participant into custody. The program participant may utilize the jail grievance process to appeal any disciplinary action against them.

### 900.4.1 ELECTRONIC MONITORING IN EMERGENCIES

In responding to any existing or imminent emergency endangering the lives of inmates in any county jail, under Government Code 8658, the Sheriff may remove the inmates from the institution. The Sheriff shall, if possible, remove them to a safe and convenient place and there confine them if it may be necessary to avoid the danger. If that is not possible, the Sheriff may release them. See Policy 901.

### 900.4.2 PROGRAM FEES

Board Resolution 12-137 authorizes an administrative fee to be charged to participating inmates.

The authority to collect these fees as provided in CPC 1203.017 and CPC 1203.018 has been repealed as of July 1, 2021. Administrative fees are no longer collectable.

### 900.4.3 ELIGIBILITY CRITERIA

All participants placed on the Electronic Monitoring Program must successfully pass all areas of the screening criteria. Exceptions to this policy will be made only with authorization from the Sheriff or Sheriff's designee.

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The court may restrict or deny a person's eligibility for the program, but the courts cannot require the Sheriff to assign a person to the program if the Sheriff or the assigned EMP staff has concluded that the person is unfit for release to the program.

### Sentenced Misdemeanor Inmates

- (a) CPC 1203.017 authorizes that sentenced misdemeanor inmates may be required to participate in an involuntary home detention program, which shall include electronic monitoring, due to lack of adequate jail space.
- (b) The Sheriff, as the Correctional Administrator, or the Sheriff's designee, shall have the sole discretionary authority, consistent with the statute and the rules and regulations of the program, to permit program participation as an alternative to physical custody.
- (c) 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 the court deems necessary, the court may restrict or deny the defendant's participation in a home detention program (CPC 1203.017(e)).
- (d) Participants shall receive any sentence reduction credits that they would have received had they served their sentences in a county jail. One day of program participation shall be in lieu of one day of incarceration.
- (e) Inmates must have no Correctional Mental Health Holds to participate in the EMP.

### Unsentenced Misdemeanor Inmates

- (a) CPC 1203.018 authorizes that unsentenced inmates may voluntarily participate in an electronic monitoring program. To qualify for participation in the EMP, the inmate must be a minimum-security inmate with no holds or outstanding warrants and one of the following circumstances must exist:
  - i. The inmate must have been held in custody for at least 30 days from the date of arraignment pending disposition of only misdemeanor charges (Penal Code Section 1203.018(c)(1)(A)).
  - ii. The inmate is being held on only misdemeanor charges and the inmate is appropriate for the program based on a determination by the Correctional Administrator that the inmate's participation would be consistent with public safety interests (Penal Code Section 1203.018(c)(1)(C)).
- (b) The Sheriff, or his/her designee, shall have the sole discretionary authority, consistent with the statute and the rules and regulations of the program, to permit program participation as an alternative to physical custody.
- (c) Inmates must have no Correctional Mental Health holds to participate in the EMP.

The EMP staff uses various forms of information while screening inmates for EMP. This information may include but is not limited to the following:

- (a) Current/prior charges.

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- i. Any inmate currently arrested for, or previously convicted of, a serious or violent felony as defined in CPC 1192.7(c) and CPC 667.5(c) will be disqualified.
  - ii. Any inmate currently required to register as a sex offender pursuant to CPC 290 will be disqualified.
  - iii. Any inmate currently charged for sex-related offenses not specified under CPC 290 will be disqualified.
  - iv. Any inmate currently arrested for, or previously convicted of, CPC 136.1 where punishment is imposed pursuant to subdivision (c) of section 136.1, Section 262, 273.5, or 422 where the offense is punished as a felony, or Section 646.9, will be disqualified.
  - v. Any inmate currently arrested for CPC 243(e)(1), or CPC 273.6 will be disqualified.
  - vi. Any inmate currently arrested for, or previously convicted of, any of the following violations will be disqualified – CPC 653f, 245(a)(4), 210.5, 273.5, 140, 148.10, 422.7, 368(b), 289(b), (d) or (e), 286(f), (g) or (i), 288a(f), (g) or (i), 267, 236.1(a), (b) or (c), 273(a), 18740.
- (b) Interview of inmate (one on one in-person interview).
  - (c) Criminal history/sophistication.
    - i. Any inmate who, based on their classification interview, was classified as a GP-4 or higher will be disqualified.
    - ii. Any inmate who, despite having met the criteria specified in subsection (1), is determined by EMP staff to have a criminal history which precludes his/her participation in the program may be disqualified.
  - (d) Work history (disclosure of prior employment required).
  - (e) Overall background (gang affiliation, probation status, past program failure, institutional behavior).

### 900.4.4 DISQUALIFYING FACTORS

During the screening process, staff will review the inmates' background for disqualifying factors. These factors may include but are not limited to:

- (a) Propensity toward violence (past violence convictions)
- (b) Deviant conduct (behavior that does not conform to social norms)
- (c) Assaults (extensive history in-custody and outside of custody)
- (d) Sex charges (no exceptions)
- (e) Crimes against children (no exceptions)
- (f) Domestic violence (convictions or active restraining orders)

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### 900.4.5 EMP REMOVAL

Examples of reasons for removing a participant from the Electronic Monitoring Program include but are not limited to:

- (a) Violations of rules and regulations
- (b) Warrant(s)
- (c) Loss of permanent residence
- (d) Court order
- (e) Voluntary removal

### 900.4.6 WRITTEN NOTICE OF DENIAL OR REMOVAL

All persons referred or recommended by the court to participate in EMP who are denied participation, or all persons removed from EMP participation if the removal was not voluntary 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 policy. (CPC 1203.017(d) (2), 1203.018(g)(2)). A copy of the written notice shall be forwarded to Inmate Records for inclusion in the inmate file. Persons denied or removed from participation in the EMP may use the jail grievance process to appeal the denial or removal.