

Sonoma County

Pretrial Release and Detention Guidelines

Effective December 2014

This document describes guidelines and the process for pretrial release and detention decision-making in Sonoma County’s criminal justice system, consistent with the interpretation of California statutes and case law.

The Sonoma County Superior Court has collaborated closely in the development of these processes and guidelines, and supports their use by the Sonoma County Sheriff’s Office, and the Sonoma County Probation Department.

Process and Guidelines

A defendant is booked into the Sonoma County Jail.

Sheriff’s Corrections staff score the defendant’s pretrial risk on the Sonoma Pretrial Risk Assessment Tool (SPRAT). The possible scores range from -11 (lower risk) to +11 (higher risk). The defendant’s score places him/her into one of four risk categories, as described in the following table:

Risk Category	Risk Score Range	Public Safety Rate^a	Court Appearance Rate^a
1 (lower risk)	-11 to -4	97%	98%
2	-3 to -1	91%	95%
3	0 to 3	77%	90%
4 (higher risk)	4 to 11	57%	91%

^a The SPRAT’s Public Safety Rate is defined as the likelihood that a defendant will have no new arrests that result in a booking into the Sonoma County Jail during pretrial release, and the Court Appearance Rate is defined as the likelihood that a defendant will make all of his/her court appearances during pretrial release.

Pursuant to statute, Corrections staff informs the defendant of the amount of bail money, based on the Sonoma County Bail Schedule, and that the defendant can post to be released from jail. At the same time Corrections staff will inform defendants of the pretrial supervision assessment process, and the potential for defendants to be released to pretrial supervision. Staff will make clear the decision to place a defendant on pretrial supervision is the prerogative of a Judicial Officer, and usually occurs at the initial court appearance.

If the arresting officer or Corrections staff observe any behaviors or signs, or are provided information they believe indicates the defendant is high risk to public, victim, or witness safety or for failing to appear in court, they may contact the on-call judicial officer for a modification of the money bail amount. This information may be included in the “Comments” section of the Pretrial Risk Assessment and Recommendation report as well.

Prior to the defendant’s first appearance in court before a judicial officer, Corrections staff prepares a Pretrial Risk Assessment & Recommendation report for defendants who remain in custody. **As staffing resources allow, Corrections staff will prepare a Pretrial Risk Assessment & Recommendation report for defendants who are released from jail on citation or money bail.**

In the Pretrial Risk Assessment & Recommendation report, Corrections staff indicates the presumptive type and non-financial conditions of release that the Sonoma County Court and the Sonoma County Community Corrections Partnership jointly developed to mitigate defendants’ risk to public safety and for failure to appear in court. The presumptive release type and non-financial release conditions are shown in the table below.

Pretrial Risk Category	Charge Category					
	Less Serious Misdemeanor	More Serious Misdemeanor	Other Felony	Driving Under the Influence	Domestic Violence	Statutory Serious or Violent Felony
1 (lower)	Release on Recognizance with Court Reminder	Release on Recognizance with Court Reminder	Release on Recognizance with Court Reminder	Release on Recognizance with Basic Supervision	Release on Recognizance with Basic Supervision	Detain, <u>or</u> Release on Recognizance with Enhanced Supervision
2	Release on Recognizance with Court Reminder	Release on Recognizance with Basic Supervision	Release on Recognizance with Basic Supervision	Release on Recognizance with Basic Supervision	Release on Recognizance with Basic Supervision	Detain, <u>or</u> Release on Recognizance with Enhanced Supervision
3	Release on Recognizance with Basic Supervision	Release on Recognizance with Moderate Supervision	Release on Recognizance with Moderate Supervision	Release on Recognizance with Moderate Supervision	Release on Recognizance with Moderate Supervision	Detain, <u>or</u> Release on Recognizance with Enhanced Supervision
4 (higher)	Release on Recognizance with Moderate Supervision	Release on Recognizance with Enhanced Supervision	Release on Recognizance with Enhanced Supervision	Detain, <u>or</u> Release on Recognizance with Enhanced Supervision	Detain, <u>or</u> Release on Recognizance with Enhanced Supervision	Detain, <u>or</u> Release on Recognizance with Enhanced Supervision

The defendant’s SPRAT risk category determines which row of the table applies to the defendant, and the defendant’s most serious booking charge determines which column of the table applies to the defendant.¹

The Pretrial Risk Assessment & Recommendation report will indicate whether the defendant has any of the following special circumstances:

¹ See Appendix A for the list of charges that coincide with each category.

1. Defendants who are charged with murder will have presumptive no bail. At their first appearance (arraignment) or subsequent scheduled hearings, the court may consider any bail motions.
2. Defendants charged with Driving Under the Influence (DUI) may have enhancements that increase recommended level of supervision, and will have the following non-financial release conditions, if applicable:

DUI Specific Enhancement Table*	
Factor	Response
A. BAC > 0.15	Increase one supervision level
B. Injury to Victim	Increase one supervision level
C. Two or more DUI convictions in the past 7 years	Increase to enhanced supervision if the defendant is released on his or her own recognizance

* Supervision will increase one level if one factor is present. Supervision will increase to the enhanced supervision level if two factors are present. When all three enhancements are indicated the recommendation to the Court will be “Detain or Release on Recognizance with Enhanced Supervision”. If Enhanced Supervision is indicated prior to scoring of enhancements, and one or more enhancements is endorsed, the court may consider remanding the defendant to custody.

Defendants may receive special chemical testing (EtG² testing), breathalyzer testing, and application of a transdermal alcohol detection (TAD) device.

3. Defendants charged with Domestic Violence (DV) offenses may have enhancements that increase recommended level of supervision:

DV Specific Enhancement Table*	
Factor	Response
A. Children present during current DV incident	Increase one supervision level
B. Battery causing injury to victim of DV incident, consistent with definition in PC 242	Increase to enhanced supervision if the defendant is released on his or her own recognizance
C. One or more violations of a DV restraining or stay-away order in the past 7 years	Increase to enhanced supervision if the defendant is released on his or her own recognizance
D. Two or more DV convictions in the past 7 years	Increase to enhanced supervision if the defendant is released on his or her own recognizance

* Supervision will increase one level if the first factor is present. Supervision will increase to the enhanced level if enhancements B, C or D, are endorsed. When three or more enhancements are indicated the recommendation to the Court will be “Detain or Release on Recognizance with Enhanced Supervision”. If Enhanced Supervision is

² EtG = Ethyl glucuronide, an alcohol metabolite that stays in the system 80 hours after consuming alcohol.

indicated prior to scoring of enhancements, and one or more enhancements is endorsed, the court may consider remanding the defendant to custody.

4. Assessment of prior criminal history and supervision status

Criminal History Specific Enhancement Table*	
Factor	Response
A. Currently on court/conditional/informal probation	Increase one supervision level
B. Three (3) or more separate failure to appear (FTA) incidents in past 7 years	Increase one supervision level
C. Five or more misdemeanor or felony convictions in the past 7 years	Increase to enhanced supervision if the defendant is released on his or her own recognizance

* Supervision will increase one level if either of the first two factors is present. Supervision will increase to the enhanced level if the first two enhancements are both endorsed. If all three factors are endorsed, the recommendation to the Court will be “Detain or Release on Recognizance with Enhanced Supervision”. If Enhanced Supervision is indicated prior to scoring of enhancements, and one or more enhancements is endorsed, the court may consider remanding the defendant to custody.

Other Factors:

1. If a defendant is presently on some form of community supervision such as (a) pretrial release, (b) parole, (c) informal/court probation, and he or she returns to custody for a new law violation, a new SPRAT will be completed and the defendant will be placed on an appropriate level of supervision if supervision is ordered by the court.
2. Defendants who are charged with a new crime while on formal probation or Mandatory Supervision status (1170 (h)) PC will have a no bail hold because of their status pursuant to 1203.2 PC. Those defendants charged with a new crime while on PRCS status will have a no bail hold because of their status pursuant to 3455 (b) PC.
3. If a defendant currently on formal supervision status with the Probation Department commits a new crime, is booked into custody and ultimately released to pretrial supervision, the supervising probation officer will be responsible for that supervision.
4. Enhanced Supervision is the highest level of pretrial supervision available to the Sonoma County Courts, short of remand to custody.

In the Pretrial Risk Assessment and Recommendation report, Corrections staff also indicates any additional information that may be relevant to the court’s pretrial release or detention decision. This additional information may include:

- Whether the defendant could not be scored on the SPRAT and the reason why (e.g., defendant was uncooperative or intoxicated; missing information)
- Whether the defendant made a threat to another person, including a victim or witness
- Whether the defendant displayed any atypical (e.g., bizarre, combative) behavior during or after the booking process
- Any specific requests made by a victim or witness (e.g., no contact order)
- A listing of convictions recorded outside of Sonoma County)

At the first appearance hearing, the prosecutor and/or defense attorney may provide additional information or make specific requests relevant to the court's decision about the type of pretrial release or detention of the defendant, as well as the conditions of release.

During the first appearance hearing, the judicial officer considers the information provided in the Pretrial Risk Assessment and Recommendation report and any additionally provided information to determine the type and conditions of release, including any changes to the scheduled amount of money bail and whether to remand defendant to custody based on the defendant's pretrial risk and other factors.

Description of Non-Financial Release Conditions

Court Reminder

The defendant is signed-up on the Offender Link program, administered by the Probation Department, to automatically receive telephone reminder calls regarding all upcoming court hearing dates and times. The defendant is not under pretrial supervision.

Basic Supervision

The defendant is under pretrial supervision administered by the Probation Department. The defendant automatically receives telephone reminder calls regarding upcoming court hearing dates and times. All defendant-staff contacts take place in the office. There are no field contacts. There is a minimum of one face-to-face contact per month, beginning with the sign-up intake. Supervision includes placement on electronic monitoring when court-ordered, chemical testing when court ordered, referral to needed services when court ordered or on a voluntary basis, verification of enrollment in court required services, and appropriate responses to the defendant's performance during supervision, such as violations of release conditions, and client-identified problems.

Defendants on basic supervision and charged with DUI receive a minimum of one urine test or breathalyzer (BA) test per week.

Moderate Supervision

The defendant is under pretrial supervision administered by the Probation Department. The defendant automatically receives telephone reminder calls regarding upcoming court hearing dates and times. Most defendant-staff contacts take place in the office, but field contacts may

occur if staff determines they are appropriate. There is a minimum of two face-to-face contacts per month, beginning with the sign-up intake. Supervision includes placement on electronic monitoring when court-ordered, chemical testing when court ordered, referral to needed services when court ordered or on a voluntary basis, verification of enrollment in court required services, and appropriate responses to the defendant's performance during supervision, such as violations of release conditions, and client-identified problems.

Defendants on moderate supervision and charged with DUI receive a minimum of one urine test per week (may include EtG testing) and one random in-office breathalyzer (BA) per week.

Enhanced Supervision

The defendant is under pretrial supervision administered by the Probation Department. The defendant automatically receives telephone reminder calls regarding upcoming court hearing dates and times. Defendant-staff contacts take place in the office or field. There is a minimum of one face-to-face contact per week, beginning with the sign-up intake. Supervision includes address verification. Supervision also includes placement on electronic monitoring when court-ordered, chemical testing when court ordered, referral to needed services when court ordered or on a voluntary basis, verification of enrollment in court required services, and appropriate responses to defendant's performance during supervision, such as violations of release conditions, and client-identified problems.

Defendants on enhanced supervision and charged with DUI are placed on a Transdermal Alcohol Monitoring (TAD) device.

NOTE: All defendants placed on Court Reminder and supervised release are enrolled in Offender Link, so the defendant automatically receives telephone reminder calls regarding upcoming court dates/times.

Adjusting Pretrial Supervision Levels

Probation Officers (PO) may move the defendant up or down one level of supervision and chemical testing based on the defendant's performance on pretrial release. When the defendant is compliant with supervision and release conditions for at least two consecutive months, the PO may lower supervision by one level. When a defendant charged with DUI participates in treatment and/or has at least two months of negative chemical testing screens, then supervision may be lowered if the defendant is not on TAD, but always retaining a minimum of one breathalyzer per week.

When the defendant is not compliant with supervision and release conditions, the PO responds according to the following protocols for violations and responses:

Types of Violations		
Minor Violations	Moderate Violations	Severe Violations
<i>Generally involves violations that show a lapse in judgment and do not cause harm to defendant or others.</i>	<i>Violations that appear to show a disregard for court orders and Pretrial Supervision, but did not cause harm or potential harm to others.</i>	<i>Violations that appear to show a willful and/or repeated disregard for court orders and Pretrial Supervision, and/or violations which cause or present a risk of harm to themselves and/or others.</i>
New Charges – Traffic infractions	New Misdemeanor Charges, Failure to Report a New Arrest	New Serious Misdemeanor and Felony Criminal Charges
Failure to Report Police Contact	Failure to Appear in Court, Failure to Answer Calls from Pretrial Services	Failure to comply with Stay Away/Restraining Orders
Failure to Report Phone Number Changes	Home Curfew Violation	Failure to Report for Initial Intake Within Two Days of Court Referral
Failure to Call in at Designated Date/Time	Leaving State w/out Authorization	Unable to Locate Defendant Client for Compliance Checks
Missed Scheduled Office Visit	Multiple Missed Scheduled Office Visits	Tampering with a Urine Sample
GPS Minor Violations	GPS Moderate Violations	GPS Severe Violations
Failure to Report Address	Failure to Download Electronic Monitoring Equipment	Tampering with an Electronic Monitoring Device
First Positive UA/Breathalyzer Test	2-3 Positive UA/Breathalyzer Tests	4 or more Positive UA/Breathalyzer Tests
Failure to Report After Court	Repeated Minor Level Violations	Repeated Moderate Level Violations

Violation Response Levels			
Pretrial Supervision Level	Minor Violation	Moderate Violation	Severe Violation
Basic	Low Response	Low Response	High Response
Moderate	Low Response	Medium Response	High Response
Enhanced	Medium Response	High Response	High Response

Types of Responses (May include one or more of the following actions within any one response type)*	
Low Response	<ul style="list-style-type: none"> • Verbal warning • May consult with attorney • Consult with family members and friends, etc.
Medium Response	<ul style="list-style-type: none"> • Meet with defendant • Increase supervision levels (increase UAs, BAs, etc.) • May consult with attorney • Mandatory contact with attorney when defendant has positive Schedule 1 and 2 substance screens • Request an imposed curfew • May return to Court
High Response	<ul style="list-style-type: none"> • Meet with defendant • Must send Notice paperwork to the D.A. & notify defense attorney • Contact law enforcement • Detain and return to Court
DUI Defendant Special Response	<ul style="list-style-type: none"> • For DUI defendants on basic supervision, if a positive substance test occurs, the defendant is summonsed to a future court appearance. • For DUI defendants on moderate supervision, if a positive substance test occurs, the defendant will be summonsed to see a judicial officer the next working day. • For DUI defendants on enhanced supervision, if a positive substance test occurs, the defendant will be arrested and booked into jail.

Appendix A

All offenses in the below-listed categories have been programmed into Integrated Justice System database by Information Services Department staff, and are available to Corrections and Probation staff when scoring/reviewing the SPRAT, and determining a bail amount. A complete list of the offenses is available from ISD.

Less Serious Misdemeanor Offenses

Includes all misdemeanors that are not in the “More Serious Misdemeanors” column.

More Serious Misdemeanor Offenses

Includes all misdemeanor person crime offenses and all non-felony sex offenses.

Other Felony Offenses

Includes all other felonies that are not in the “Statutory Serious or Violent Felony Offenses” column.

Driving Under the Influence (DUI) Offenses

All DUI offenses in the California Vehicle Code (e.g., VC 23152 & 23153)

Domestic Violence (DV) Offenses

PC 243(e)(1)

PC 273.5(a)

PC 273.6

PC 422

Statutory Serious or Violent Felony Offenses

Includes felony charges listed in Penal Code § 1192.7(c) (Serious Felony) and Penal Code § 667.5(c) (Violent Felony)