

## **ELECTRONIC MONITORING PROGRAM (EMP)**

### **AUTHORITY**

#### **California Code Section(s):**

Penal Code Section(s) 1203.016, 1203.017, and 1210.7 through 1210.16

#### **Related Probation Department Policies / Procedures:**

Section E: Probation Enforcement and Procedures  
Section F: Force, Arming and Officer Safety  
Section G: General Supervision Procedures  
Section H: Adult Supervision Procedures  
K 3.1 Vehicles

Section 1210.7 PC authorizes the Chief Probation Officer to utilize continuous electronic monitoring to electronically monitor the whereabouts of persons on probation under specified conditions included in the law. Further, Section 1203.016 PC provides authority to the County Board of Supervisors to designate a Correctional Administrator (which may be the Chief Probation Officer) who may offer a program under which “minimum security inmates” and “low risk offenders” committed to county jail may “voluntarily” participate in a home detention program during their sentence in lieu of confinement in the county jail. Section 1203.017 PC also authorizes the Correctional Administrator to determine if jail conditions necessitate the release of sentenced offenders with misdemeanor convictions prior to serving their entire commitments due to lack of jail capacity, thereafter, placing defendants on involuntary home detention with electronic monitoring.

Commencing with FY 2006/2007, the El Dorado County Board of Supervisors designated the Chief Probation Officer as the “Correctional Administrator” per Section 1203.016 PC with authority to operate a home detention program. The Probation Department initiated the program, “Electronic Monitoring Program” (EMP) August 1, 2006. The Board of Supervisor’s enumerated resolution authorizing/approving the Chief Probation Officer to administer the Electronic Monitoring Program is number 251-2006.

Sections 1203.016(d)(1) PC and 1203.017(d)(1) PC require that the rules and regulations and administrative policy of the Electronic Monitoring Program shall be written and reviewed on an annual basis by the County Board of Supervisors and the Chief Probation Officer, as the Correctional Administrator for the program. (To meet the annual review requirement, it shall be the responsibility of the Department EMP Manager to assure annual review of the program as required above, is initiated in May to be accomplished by July 1<sup>st</sup> each year.)

### **PROGRAM PURPOSE / MISSION**

Sections 1203.016(j) PC and 1203.017(i) PC include it is the intent of the legislature that the home detention program (EMP) shall maintain the highest public confidence, credibility, and public safety. The Probation Department, on behalf of the Board of Supervisors, and in partnership with the Superior Court and Sheriff’s Department, will meet this intent by providing professional EMP services pursuant to the following mission and goals:

- The Probation Department operates the EMP program to enhance community safety by providing a supervised alternative to incarceration for adult inmates under the ~~supervision jurisdiction~~ of the Superior Court. This alternative to incarceration will assist the Sheriff's Department in safely managing the jail inmate population and overcrowding issues in the jail facilities county-wide. The EMP program emphasizes public safety while relieving jail overcrowding and costs associated with inmate housing and medical needs, while achieving accountability, rehabilitation and victim support by providing qualified offenders the opportunity to be contributing community members as they complete Court sentences within our community.
- The program provides supervision for both voluntary and involuntary participants pursuant to applicable law, with community safety being paramount. Community safety, rehabilitation, and jail population management ~~and victim support and restitution collection~~ are primary goals of the EMP program.
- The Chief Probation Officer, as the EMP program Correctional Administrator, has the sole responsibility and authority regarding the acceptance of sentenced offenders voluntarily admitted to the program and those offenders involuntarily placed under program supervision due to jail overcrowding.
- Staffing of the EMP program will address needs throughout the county, with armed Deputy Probation Officers providing EMP assessments and services on the West Slope and in South Lake Tahoe. The armed officers will assist the Courts and Sheriff's Department by supervising a caseload of up to sixty (60) offenders county-wide. ~~Supervision will be enhanced with the use of electronic monitoring equipment in each case.~~

## **ELIGIBILITY AND SELECTION CRITERIA**

The Probation Department retains the sole authority for admitting offenders to the EMP program. Resources are limited; therefore, in order for admittance of an offender to EMP, there must be an available slot and available electronic surveillance equipment for the applicant. Offender "slots" are currently based upon forty (40) slots on the West Slope and twenty (20) slots in South Lake Tahoe.

The Superior Court may exclude by Court order certain offenders from the program. Any offender with an order from the Court excluding EMP access is disqualified. The Court may also order pre-trial defendants to participate in EMP supervision provided by the Probation Department, pursuant to conditions imposed by Court order pending trial or further hearing.

Electronic monitoring equipment will be used in all approved cases; therefore, all applicants must have a residence with acceptable and accessible telephone service unless approved by the EMP DPO to use cellular EMP monitoring equipment. Telephone service may not have call forward or call waiting service and may be interrupted at times by the electronic supervision equipment. All residents within the home must agree to the phone use for electronic surveillance, as well as all other EMP terms and conditions.

In general, all applicants must reside within El Dorado County as EMP services will only be provided within the county. Additionally, all applicants must be under the jurisdiction of the El Dorado County Superior Court. Neither ~~courtesy~~ cases from other jurisdictions nor out-of-state cases will be served. Offenders living in California out of county that are sentenced or awaiting sentencing in El Dorado County Superior Courts may be considered for the EMP ~~(GPS)~~ program on a case by case basis at the discretion of the Court and based on availability of the equipment and the unique circumstances of the offender.

1203.016 PC (Voluntary EMP):

Section 1203.016 PC applicants must have a minimum of twenty (20) days and not more than one hundred-eighty (180) days of commitment remaining to apply for and be admitted to the EMP program. Exceptions to the “20 day, 180 day” rule may be authorized by the assigned EMP Deputy Probation Officer with supervisor approval, to meet special needs of the Courts or Sheriff’s Department. Documentation for such exception shall be retained in the EMP participant’s file and documented in PRIORS.

Section 1203.016 PC requires voluntary offenders be minimum security inmates and/or low risk offenders in order to be placed in the EMP program. Evaluation of this criteria will be completed by EMP program Deputy Probation Officers, utilizing application information, Court and jail records, probation records, and by the completion of a risk assessment (see Risk Assessment section). All applicants assessed to be inappropriate for EMP services will be excluded from the program, subject to appeal as specified elsewhere in this manual item.

All offenders with the following convictions are ineligible for EMP ~~provided~~ pursuant to Section 1203.016 PC:

- Current or prior felony listed in §667.5 or 1192.7(c) PC (serious & violent felonies)
- Current convictions of §273.5 PC or §243(e)(1) PC, felony or misdemeanor
- Sexual offense convictions (except 261.5 PC)
- Current conviction is a felony DUI

**(Note:** Those misdemeanor offenses listed directly above are eligible for involuntary EMP supervision if the Correctional Administrator determines the release of such offenders from jail custody is necessary due to jail overcrowding.)

Applicants/offenders with records of poor conduct in the jail facilities and/or poor performance under probation supervision may be excluded from the program as ineligible, as determined by the Probation Department.

Those candidates, who meet the criteria and provisions of the EMP program pursuant to Section 1203.016 PC, will be considered upon timely receipt by the Probation Department of a complete, properly filled out and signed application packet and required application fee payment (see Application procedures).

Section 1203.016 PC requires that participants must agree to all rules of the program that include, but are not limited to, remaining within the interior of the home as directed, allowing

program and law enforcement staff access to the residence, allowing the use of electronic surveillance equipment, and agreement to return to custody to complete jail term for any authorized reason **without further order of the Court**.

All applicants shall agree to submit to **warrantless search and seizure and** urinalysis testing for drug and alcohol use as directed by EMP staff in order to qualify for EMP services. Illegal drug and alcohol use or consumption during an EMP commitment is prohibited.

Applicants who fail to follow program requirements, rules, and/or fail to appear as directed by the Court or probation officials for appointments may be determined ineligible for the EMP program by the Probation Department.

1203.017 PC (Involuntary EMP):

Section 1203.017 PC provides for a program of involuntary EMP supervision for adult misdemeanor offenders serving commitments in jail and provides the Correctional Administrator with the authority to determine the selection criteria for involuntary EMP supervision. Mandatory selection criteria includes, but is not limited to, sentenced misdemeanor offenders who need to be released from jail prior to completion of their sentence due to jail overcrowding.

Offenders supervised on involuntary EMP shall follow all rules and regulations of the program established by the Correctional Administrator with program approval by the Board of Supervisors. The rules shall include, but are not limited to:

- Remaining in the interior of the residence as directed
- Allow program and law enforcement staff access to the residence to assure program compliance
- Submit to use of the electronic monitoring equipment

To assure program compliance, as EMP is a custody program in lieu of jail, **offenders probationers** shall submit to search and seizure conditions and alcohol/drug testing conditions during the term of EMP to assure neither unlawful use of drugs nor any use of alcohol while under EMP supervision.

The Correctional Administrator may authorize the EMP DPO to transfer sentenced misdemeanor offenders from jail to EMP in order to manage the jail population, when the facility is experiencing overcrowding. The EMP DPO shall coordinate with jail classification staff to determine the need for such transfers. Further, jail administration will at times be required to release sentenced misdemeanor offenders pursuant to applicable law and policy due to jail overcrowding.

When, due to overcrowding, the jail staff must release a sentenced misdemeanor offender prior to the completion of the Court ordered jail commitment, the offender will be ordered to report to the EMP program. The jail staff will order the offender upon release from the jail to report to the Probation Department at 8:00 a.m. on the next judicial day following release. The offender will sign and receive a copy of the jail order directing them to report to the Probation Department and noticing the offender of the requirement to serve the remainder of commitment on EMP as

directed by the EMP DPO. The jail will forward a copy of the signed jail order to the Probation Department. Should the offender fail to report as directed, the EMP DPO shall take appropriate action to notice the Court of the non-compliance circumstance.

Upon reporting to the Probation Department, each involuntary EMP offender shall be evaluated by the EMP DPO for suitability for Involuntary EMP supervision. The Probation Department shall have the sole authority over admission to Involuntary EMP pursuant to Section 1203.017 PC.

### **ALTERNATIVE SENTENCING PRE-APPLICATION REVIEW**

Pursuant to the direction of the Superior Court, the Probation Department provides Alternative Sentencing Pre-Application review for all offenders referred by the Court. Those offenders the Court determines may be considered for alternative sentencing, which may include both EMP supervision and the Sheriff's Work Program, are provided a Superior Court Referral to Probation Department for Alternative Sentencing Evaluation form (#414) and are directed to report to the Probation Department following the Court hearing. Upon reporting, the defendant is assessed by probation staff for appropriateness for EMP and/or Work Program and referred appropriately. Following the review, the Probation Department provides a letter (form #417) to the referring Court confirming the status of the offender's alternative sentencing application.

### **APPLICATION PROCEDURE**

#### 1203.016 PC (Voluntary EMP):

Application packets for the Voluntary EMP program will be available at each Probation Office and both jail facilities (for in-custody applicants).

Applications must be completed and all attachments included in order to be accepted for processing by the Probation Department. Applications may be mailed to or personally delivered to the Probation Office in Shingle Springs and South Lake Tahoe. Each application must include payment of a non-refundable \$25.00 application fee, payable to the El Dorado County Probation Department. Non-payment of the application fee will result in disqualification from Voluntary EMP services (send applicant notice form #400).

The Superior Court, when not prohibiting EMP for a defendant, will generally grant applicants not less than thirty (30) days to arrange for EMP services prior to the mandatory report to jail date. The Superior Court has directed that when applicants are granted time to apply for EMP services, the defendant shall report to the Probation Department within five (5) calendar days of sentencing to apply for EMP. The completed application packet is due to Probation five (5) days thereafter. For out-of custody applicants pending a jail commitment, applications must be received by the Probation Department twenty (20) calendar days prior to the required reporting date to jail. Every effort will be made by the Probation Department to process applications in a timely manner. **However, the defendant shall report to jail as required by the Court not later than the final jail reporting date unless the defendant receives written acceptance into the EMP program by the Probation Department.**

In-custody applicants may submit an application at any time subject to the requirement of not less than twenty (20) days of commitment nor more than one hundred-eighty (180) days of commitment remaining. Applications completed and submitted in-custody will be forwarded by jail staff to the Probation Department EMP program.

Jail officials, in certain cases, may contact the Probation EMP unit to request evaluation of an applicant for EMP services based upon the need for release from jail related to a medical circumstance. Upon receipt of such a request, an EMP DPO shall be assigned to investigate and determine eligibility for EMP release. (See requirements below.)

1203.017 PC (Involuntary EMP):

Offenders assigned by staff to Involuntary EMP, under the authority of the Correctional Administrator, are not applicants as the program is mandated for them by law. Therefore, neither application, nor any application fee is involved. Such offenders will be provided with a questionnaire and orientation packet they are required to complete and will be provided written rules, guidelines and EMP conditions.

**REVIEW OF APPLICATION / ASSESSMENT / SELECTION and/or DENIAL**

1203.016 PC (Voluntary EMP):

All applications upon receipt shall be assigned to an EMP Deputy Probation Officer for review and processing. Incomplete applications will be returned to the defendant by mail along with notice of disqualification. If the disqualification is solely due to the application packet being incomplete, the defendant may re-submit a correctly completed application without going through the appeal process, subject to the mandatory application submission dates included/required within the EMP program guidelines.

The assigned EMP DPO shall review the application packet for eligibility for EMP services. As Section 1203.016 PC EMP program is voluntary and involves certain rights of the defendant and waiver of rights, the application and required forms must be signed by the applicant.

Additional eligibility review is required as follows:

- Review EMP eligibility criteria as it applies to the applicant's case
- Review Superior Court sentencing order for eligibility
- Assure no Court ordered exclusion from EMP
- Assure El Dorado County residency
- Assure original or remaining length of jail commitment is twenty (20) to one hundred-eighty (180) days unless exception is approved by supervisor
- Review jail and probation file, when applicable
- Review CII, FBI, DMV records
- Assure no warrants and/or pending charges
- Assure no prohibitive convictions (serious or violent felonies, domestic violence, sexual offenses, felony DUI)
- Assure no prohibitive jail conduct

- Assure other adults in household have signed and agreed to EMP requirements
- Verify reported employment
- Contact victim, correctional staff, former DPO as appropriate

Upon completion of eligibility review, the applicant shall be noticed as soon as possible if disqualified from the EMP program, by mail, and by mail and telephone if the determination is less than seven (7) calendar days from the applicant's report to jail date for sentences stayed pending EMP approval (form #407).

Not all applicants who meet the criteria for EMP will be suitable candidates for EMP services. In cases where the EMP DPO determines other factors, such as victim input, community safety and other non-listed factors, disqualify the applicant for EMP, such a disqualification may be made, with the applicant's right to appeal the decision under the EMP appeal procedure.

### **SPECIAL MEDICAL REQUESTS**

For medical related requests for EMP release by jail officials, all eligibility criteria will apply. Suitable candidates may be authorized for EMP release. Medical candidates, who initially do not qualify, may be staffed with the Sentencing Court, on behalf of the jail, with supervisor approval. If the Probation Department determines it appropriate to seek judicial approval and if the Sentencing Court authorizes EMP, the defendant may be processed onto the EMP program. The defendant must agree to transfer to EMP and agree to all EMP rules and regulations.

### **ASSESSMENT INTERVIEW**

If upon review, it appears the applicant is eligible for the EMP program, the EMP DPO shall contact the applicant for an assessment interview. During the assessment interview appointment, the applicant shall submit to a urine test for drug/alcohol use. Failure to report as directed for the interview appointment is grounds for EMP disqualification.

During the interview, the EMP DPO will assess the suitability of the applicant's residence and reported telephone system considering telephone system requirements for EMP. Residential factors and/or lack of available telephone service are EMP disqualification factors unless the use of cellular monitoring equipment is approved by the EMP DPO.

### **RISK ASSESSMENT**

Section 1203.016 PC requires the Voluntary EMP program is for sentenced offenders determined to be "minimum security inmates" or "low risk offenders."

#### **Minimum Security:**

The El Dorado County Jail's classification of inmates includes: medium risk, maximum risk, administrative segregation and protective custody.

All maximum risk inmates are excluded from EMP eligibility. Medium risk classifications are eligible for EMP assessment as long as no other disqualifying factor is determined.

Administrative Segregation and protective custody inmates, with supervisory approval, may be reviewed on a case by case basis for EMP eligibility, depending on the reasons for such a classification.

Low Risk Offender:

During the assessment interview, the EMP DPO shall complete the offender risk assessment with each Voluntary EMP applicant. The Superior Court may waive this risk assessment for any offender by Court order. As Pre-Trial EMP is provided under Court ordered authority, no assessment is required for such offenders. Involuntary EMP participants, Section 1203.017 PC, are not subject to the assessment process described immediately below.

Low Risk offender means a probationer, as defined by the National Institute of Corrections model probation system. The Chief Probation Officer, as the EMP Correctional Administrator, has authorized the use of the Placer County Probation Department (with approval) Adult NIC Risk Assessment, for assessing offender risk level. For EMP assessment, a score of twenty-four (24) points or less indicates low risk.

No EMP applicant shall be admitted to the Voluntary EMP program without completing the Adult NIC Risk Assessment process unless the assessment is waived by Court order. All applicants with a risk assessment score of twenty-five (25) points or more are disqualified from EMP services.

**REVIEW OF EMP CONTRACT / PROGRAM RULES / REQUIRED FEES**

During the assessment interview, if it is determined an applicant qualifies for EMP services, the EMP DPO shall review with the applicant the completed EMP Contract, EMP program rules, and EMP program fees requirement.

The applicant shall agree to all rules, requirements and fees, and sign all required documentation for enrollment in the EMP program. (**Note:** Applicants shall not be excluded from EMP services when determined by the Probation Department not able to pay program supervision fees.)

Search and seizure and drug/alcohol conditions are included in this program as EMP is a custody program provided as an alternative to jail.

Section 1203.016(b) PC requires the applicant shall give their consent in writing to participate in EMP and shall agree in writing to comply with all rules and regulations of the EMP program. Involuntary EMP participants shall be advised in writing that they are subject to all rules and regulations of Section 1203.017 PC program.

The County of El Dorado, the Probation Department, and Sheriff's Department shall not be held liable for any expense resulting from any injury or illness incurred by an inmate while serving on the Electronic Monitoring Program.



The applicant must also agree in writing to be financially responsible for the loss, theft or damage to any and all issued EMP surveillance equipment and the EMP participant is financially responsible for all personal medical costs incurred during EMP supervision.

### **PROGRAM ACCEPTANCE**

Once complete eligibility review, assessment and contract requirements are satisfied, an applicant may be placed under supervision of the EMP program. The defendant shall be provided with written reporting instructions regarding EMP home confinement and hook-up of EMP equipment. If detained in jail at the time of acceptance, the EMP DPO will submit the EMP release slip to the jail directing the release of the inmate to the EMP Program (form #410).

### **NOTIFICATIONS**

#### **Denial:**

All applicants denied enrollment to the EMP program will receive written notice of the denial and reasons for the denial decision (form #407). The Notice of Denial shall be copied to the Court, Jail, District Attorney and Counsel for the defendant. Defendants shall be noticed of their appeal rights and instructions for appeals, which may be filed up to ten (10) days following the notice of denial.

#### **Appeals:**

All appeals will be reviewed by the Supervising Deputy Probation Officer assigned supervision of the EMP program (West Slope and South Lake Tahoe). Appeals by denied applicants shall be submitted to the Probation Department in writing for consideration. The Probation Department retains all jurisdiction regarding enrollment on the EMP program as provided within Sections 1203.016(d)(2) and 1203.017(d)(2) PC.

Upon receipt of written appeal, the assigned SDPO shall review the appeal, rule on the appeal and notice the applicant in writing of the decision on the appeal within five (5) judicial days. All decisions by the Probation Department under the appeal process are final. EMP appeals do not require review by the Court, nor does the defendant have any right to Court review.

#### **Acceptance:**

Applicants accepted for EMP services shall receive written confirmation; said confirmation shall be copied to the Superior Court, Jail, District Attorney, and Counsel for the defendant (form #407). Additionally, the defendant shall receive written reporting instructions for EMP services (form #408).

#### **EMP Failures:**

The Superior Court, Jail, District Attorney and Counsel for the defendant shall receive written notice of any defendant who fails and/or absconds from EMP (form #409). (See EMP Enforcement Section.)

#### **EMP Successful Completion:**

The Superior Court, Jail, District Attorney and Counsel for the defendant shall receive written notice for all sentenced defendants upon successful completion of an EMP program (form #409). Such notice is not required for Pre-Trial EMP participants as they are removed from the program by the Court.

### **EMP INTAKE / INITIAL HOME VISIT / EQUIPMENT INSTALLATION**

The intake process for EMP services shall be completed at the defendant's residence at a time designated by the Probation Department. EMP equipment will be used in all cases and shall be installed no later than the end of the duty day of the EMP intake process. For in-custody transfers from jail to Voluntary EMP, the intake and EMP equipment installation shall be completed the same day as the release authorization of the defendant from jail to EMP.

During the initial home visit/intake process, the EMP DPO shall conduct a search of the residence to assure a safe and secure location for supervision under the EMP program, assuring no weapons, drugs, alcohol, or other prohibited items.

#### **Equipment Installation and Removal:**

Instructions for the installation and removal of EMP equipment are provided by the EMP equipment contractors and through contractor provided training.

Upon verified successful installation of the EMP equipment, the EMP DPO shall assure all scheduled authorizations for any authorized departures from the residence are addressed with documentation and are reported to the EMP equipment service.

The defendant shall be noticed of any required office visits with the EMP DPO.

#### **Time Credits / Date of Release:**

The EMP DPO shall document the date of intake, install, and length of commitment to EMP, noting the date of release under a program of full compliance. The defendant shall be noticed of the planned authorized date of release and release instructions. Upon release, EMP staff shall report to the residence and remove the EMP equipment, unless other arrangements are directed by the EMP DPO assigned.

#### **Conduct Credits (4019 PC):**

In determining the date of release from the EMP commitment, conduct sentencing credits per Section 4019 PC are addressed as follows:

##### **1203.016 PC (Voluntary EMP):**

Voluntary EMP program participants are not entitled to conduct sentencing credits (Section 4019 PC) pursuant to findings by the Court of Appeal, Third District, California (People v. Silva 114 Cal. App. 4th 122, 7 Cal. Rptr. 3d 473; 2003). Therefore, no conduct credits will be awarded and participants will serve the entire length of their sentence, minus any actual time previously served in jail and any credits previously awarded by the jail.

##### **1203.017 PC (Involuntary EMP):**

Involuntary EMP program participants are entitled to conduct sentencing credits (Section 4019 PC) pursuant to Section 1203.017(a) PC. Therefore, in involuntary cases, the EMP DPO shall determine and award conduct credits as if the participant was actually serving their term in jail.

### **EMP PROGRAM SUPERVISION AND ENFORCEMENT**

Defendants detained at home on EMP are serving Court ordered sentences. They shall not be allowed outside of the interior premises of their residence for any unauthorized reason (Sections 1203.016(b)(1) and 1203.017(b)(1) PC).

Sections 1203.016(f) and 1203.017(f) PC authorize that the EMP program may allow offenders to exit the residence to attend authorized activities limited as follows:

- Seek and maintain employment
- Attend approved counseling, education, and vocational training
- Seek medical and dental care as authorized

Decisions by EMP staff to authorize home departures shall be consistent with the law and be made in the interest of community safety.

EMP participants, upon their request, shall be allowed to attend one (1) religious service/meeting each week during the term of EMP supervision (Title 15, Article 6, Section 1072 CCR). The EMP DPO shall verify the location and authenticity of the religious service/meeting prior to attendance.

EMP participants with other adults residing within the home will not be allowed authorized home departures for the purpose of purchasing groceries. The other adults will need to make these purchases for the EMP participant. In cases where the EMP participant resides alone, grocery shopping is allowed under very restricted pre-authorized conditions determined by the EMP DPO.

Failure of a defendant to stay within the home as required is subject to escape charges per Section 4532 PC and/or violation procedures and return to custody for the remainder of their commitment. Other than documented emergency departures for life safety and/or medical emergencies, defendants shall not leave the residence without prior approval of the EMP DPO. Defendants shall immediately notify the EMP DPO of any such emergency circumstance.

#### Residence / Telephone / Field Contacts:

**The assigned Deputy Probation Officer (DPO) Staff** shall supervise offenders on EMP, ensuring compliance to program rules and regulations. Each offender on EMP shall receive random home visits and additional random telephone contacts. All contacts shall be documented in PRIORS. ~~Weekly~~ Random drug testing shall also be administered **on a case by case basis** to assure no drug/alcohol use.

For defendants who are authorized to leave the residence during EMP for work, counseling, etc., random field contacts and contacts with the employer shall occur to assure EMP program

compliance. During face to face contacts, the assigned DPO shall check EMP equipment to ensure it is working properly and has not been tampered with.

The assigned DPO shall check the monitoring company's automated reports (i.e. Internet based applications, E-mails, Text Messages, etc.) for problem issues or violations on a daily basis. If a problem issue or violation is received, the assigned DPO shall take appropriate action. Documentation of all problem issues or violation(s) and appropriate actions shall be documented in PRIORS prior to the end of the business day. In addition, the assigned DPO shall document that the check occurred in PRIORS, even when there are no violations reported.

Incidents / Violations / Documentation:

All reported violations of EMP shall be investigated within one (1) business day and enforcement action taken as determined appropriate, to include arrest for determined violations. Documentation (notes and Incident Reports) regarding incidents and/or violations shall be completed and retained in the EMP file and documented in PRIORS no later than the end of the following business day.

As EMP is custody in lieu of a jail commitment, determined violations shall result in return to jail custody. EMP Officers are authorized to arrest and return violators of EMP to jail without warrant and without further hearing of the Court (Sections 1203.016 (b)(4) and (c), 1203.017 (b)(4) and (c) PC) to serve the remainder of the original sentence. Alternative sanctions in place of arrest for minor violations of the EMP program shall be approved by a supervisor and shall be the rare exception considering community safety and the interests of the Superior Court.

EMP DPO staff shall follow all laws and Probation Department policies and procedures when arresting and transporting EMP violators to jail. Upon booking offenders back into the jail, officers shall notify jail staff the booking involves a "return to custody as EMP failure" as the jail will have transferred the defendant's case to "interrupted sentence." The defendant shall serve the remainder of the original sentence, with credit for time served and any applicable conduct credit (Section 1203.017 PC Involuntary EMP only). Any change to the original sentence or time credits shall be noticed to jail staff in writing by the EMP DPO upon re-booking of the defendant.

Upon re-arrest of the defendant, the Superior Court, District Attorney and Counsel of the defendant shall receive written notice.

If a defendant absconds from EMP, with whereabouts unknown, the Superior Court, Jail, District Attorney and Counsel for the defendant shall receive written notification as soon as possible but no later than the end of the business day.

For Formal Probation cases under the supervision of the Probation Department, formal violation/revocation proceedings and request for warrant issuance shall be initiated per department policy and procedure.

For Summary Court Probationers, the Superior Court will initiate revocation proceedings and issue a warrant of arrest upon receipt of written notice from the Probation Department that the

defendant has absconded from EMP, whereabouts unknown. An Incident Report shall be completed no later than the end of the next business day and retained in all cases when a defendant absconds from EMP as the EMP DPO will need to be prepared to testify at future violation proceedings as required by the Court.

Damaged, Lost or Stolen EMP Equipment:

Immediately upon the discovery that EMP equipment has been damaged, lost or stolen, the following procedure should be followed:

1. EMP Officer will report loss or damage to the EMP equipment vendor.
2. The EMP Officer will remind/notify defendant or juvenile (and parents) of their responsibility to pay for the equipment and that they will receive a bill from the Probation Department for the cost of the equipment.
3. The EMP Officer will prepare a memo or Incident Report documenting the following (an Incident Report format to be used if a violation is going to be alleged; otherwise a Memorandum format should be used):
  - All relevant facts concerning the loss or damage of the equipment (Date of loss; name and case number of the defendant/juvenile involved, circumstances of loss/damage, efforts to recover lost equipment, etc.).
  - All relevant descriptions of the equipment lost or damaged (Manufacturer, description, model and serial numbers, etc.).
  - Numbers 1 and 2 above have been completed (i.e. vendor has been notified, and defendant/juvenile (and parents) have been notified of their responsibility to pay.
4. After approval of the Incident Report or Memorandum by the supervisor, the supervisor will ensure copies are sent to the CPO, FAM, Division DCPO, and EMP Manager.
5. The EMP Officer will make all necessary entries in PRIORS to reflect the above has been completed.
6. Assigned fiscal staff will send a bill to the responsible offender (and parents if a juvenile) for the cost of equipment as specified in the current contract with the EMP Vendor.

**EMP PROGRAM FEES**

EMP program fees as described below apply only to offenders admitted to EMP pursuant to Section 1203.016 PC, Voluntary EMP. Involuntary EMP and Pre-Trial EMP offenders are not subject to EMP fees or program reimbursement (Section 1203.017(j) PC).

Section 1203.016(g) PC authorizes the Board of Supervisors to prescribe an EMP services program administrative fee, subject to the participant's ability to pay. No applicant/participant shall be excluded from EMP based solely upon their inability to pay supervision fees.

In addition to the EMP application fee (\$25.00) collected at the time of application for EMP, each Voluntary EMP participant shall also be required to reimburse the Probation Department for a portion of EMP supervision costs in the amount of \$10.00 per day, including the first and last day of supervision when EMP equipment is installed and returned.

Issued: 7/06  
Revised: 6/08  
Revised: 5/10  
Revised: 5/11

Pursuant to Sections 1203.016, 1210.15, 1203.1b, and 1208.2 PC, the Probation Department will collect the EMP supervision fee after each defendant has first satisfied all other outstanding restitution orders, base fines, State and local penalties, and restitution fines. Although collected following the successful payment of other financial requirements, the supervision fee will be charged upon delivery of services by the department.

Each EMP participant determined to have the ability to make payments shall be directed to immediately begin making victim restitution payments while serving on the EMP program. Willful failure to pay restitution and fees as required, when able to pay, upon prior written notification from the Probation Department of said willful failure to pay, may be grounds for removal from EMP and return to jail (Section 1203.016(b)(4) PC).

The assigned EMP DPO shall notice the accounting division of the requirement to collect the application fee and supervision fees related to Voluntary EMP services. Additionally, the accounting division shall be noticed of the intake date and release date of each Voluntary EMP participant from the EMP program for the purpose of determining amount of supervision fees due (form #412).

### **EMP PROGRAM STATISTICS**

Staff members assigned to the EMP program are required to collect, report and retain daily, monthly and quarterly statistics regarding the delivery of EMP services. For each EMP participant, the assigned EMP DPO shall update the EMP Statistics in the PRIORS database as trained.

#### 1203.017 PC (Involuntary EMP):

In addition to the above, Section 1203.017(h)(1) PC requires that the Correctional Administrator report specified information regarding Involuntary EMP participants to the Corrections Standards Authority (CSA). Assigned EMP Officers supervising Section 1203.017 PC Involuntary EMP offenders shall complete the mandatory CSA reporting form (IHD form) for submission to CSA on a quarterly basis. In completing the CSA reporting form, each applicable offender will be entered on the form one (1) time at the time they complete EMP, regardless of success or failure. At the end of each quarter the IHD Form will be forwarded within the department pursuant to department direction for retention and submission to CSA. Additional instructions are included by CSA on the IHD Form for review and compliance.

#### ~~Continuous Electronic Monitoring (CEM) cases (1202.8(b) PC):~~

~~Beginning January 1, 2009, and every two (2) years thereafter, each Probation Department shall report to the Corrections Standards Authority (CSA) all relevant CEM statistics (1202.8(d) PC). The report to CSA shall include the costs of CEM monitoring and recidivism rates. This reporting requirement is statutorily mandated through 2017. The Department EMP Manager is responsible for the completion and submission of this report.~~