

ANSWERS TO APPENDIX A - Frazier et al. v. County DOC

- 1. Are some release considerations absolutely critical, while others are less so?**

Answer: Yes. Public safety is the foremost concern when determining pretrial release risk, followed by risk of flight. All variables are important when considering a pretrial defendant's release eligibility, but none exclusively prevent a release to some level of PGCDOC supervision. A defendant charged with a violent felony may find themselves under greater scrutiny based on the heightened risk of committing a similar offense if released or flight. However, the seriousness of the offense is a consideration for the court, and regardless of the seriousness of the offense if a defendant is referred to the Pre-trial release program by the court the program does not then consider the nature of the offense in determining pre-trial release eligibility. Critical considerations are the ability to supervise the defendant if released which means that the defendant must have a verifiable address and phone. Also, the existence of a detainer from another jurisdiction may disqualify a detainee from the program.

- 2. Insofar as a fixed address or telephone are deemed critical for purposes of maintaining contact with a releasee, to what extent would the nonfulfillment of those factors automatically result in a defendant not being released? (Paraphrasing-what else can be done for individuals who are homeless, who do not have access to a telephone, and could separate arrangements be made to help place someone into a halfway house?)**

Answer: Depending on the level of pretrial supervision set forth by the court, the ability to locate, communicate, and supervise a defendant are vitally important to both court proceedings and supervision requirements such as routine checks and drug testing. As such, an address of some sort – be it private residence or shelter – and a reliable method of communication are paramount. PGCDOC staff have worked with community stakeholders such as the Department of Social Services to remedy such issues in individual cases.

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3. How many calls per day, per week, should be made etc., by the Pretrial Division, to verify release considerations while the defendant remains detained?

Answer: The process of verification begins immediately. Calls should be made daily to verify any information needed for release. It is important to note that the pretrial release program employees do not have any control over when individuals needed to provide necessary information contact them back. Not having critical information from persons who do not return phone calls will delay and at times halt a defendant's ability to be released. Pretrial Release, to include both the Case Management Unit and the Home Monitoring Program (Pretrial Release Level IV and County Home Detention), have always submitted written correspondence to the court once an individual is found to be ineligible for program placement, as well as the Office of the Public Defender and the State Attorney's Office, and private defense attorneys. This is now a written directive as part of the Home Monitoring Program standard operating procedure.

4. Should the Pretrial Division be required to report back to the Bail Judge with respect to its efforts to determine an individual's release status both when it has determined that a detainee should be released and when it has determined that the individual should be detained? Should a form be used? What information should the form contain? With what level of specificity should the Pretrial Division's efforts be documented? With what frequency should the form be sent to the judge? Must the judge have to periodically sign off on the individual's release or his or her continued detention?

Answer: PGCDOC does not notify the court if a defendant is released following the Court's order/referral to the program. It has always immediately submitted written correspondence to the court once an individual is found to be ineligible for program placement. The Office of the Public Defender, the State Attorney's Office, and private defense attorneys receive a copy of the written correspondence' as well. The defendant also receives written notification via housing unit mail delivery. The standard operating procedure of the Home Detention Program/Level IV Pretrial Release now requires that the Court be

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notified, within 10 business days of receipt of the Court's bond order referring a defendant to the pretrial release program, of any issues/problems that the program is having in making an eligibility recommendation, i.e., problem(s) obtaining or verifying necessary information. The SOP also requires that, within 10 business days of receipt of the Court's bond hearing order, all eligibility determinations will be made and, in the case of ineligibility, the Court, defendant's counsel and the defendant are notified in writing of the ineligible recommendation and the reason(s) for the ineligibility determination.

5. Should defense counsel be given expedited attention by the Pretrial Division when calling to inquire as to the status of a client/detainee, e.g., should counsel receive a response within 24 hours?

Answer: It is unrealistic to expect a response in 24 hours to inquiries regarding in-process new cases. The Pretrial Release Program shares pertinent information with the judiciary, SAO and the defense attorneys regarding eligibility as soon as the information is available. PGCDOC always strives to process and release pretrial detainees as quickly and safely as possible, which benefits both the Department and the defendant.

6. To what extent has limited manpower in the pretrial division been the reason that pretrial decisions are delayed? Is that an appropriate justification for delaying release decisions? What level of manpower would permit more expedited pretrial release decision-making?

Answer: Limited manpower is an issue as investigators and case managers have extensive caseloads. The Department of Corrections has no control over the fluctuating crime rates and cases that are referred to the Pretrial Release Program. However, the current Pretrial Release Program staffing level believes that it can comply with its new standard operating procedure of making all pretrial release decisions within 10 business days and making notifications to the Court, counsel and defendant. Decisions have always been made at PGCDOC as expeditiously as possible; obtaining verifications from the information defendants provide and obtaining alternative housing from community resources is most often the cause for any delay in release.