

**Management Audit
Of the Office of Pretrial Services**

Prepared for the
Board of Supervisors
of the County of Santa Clara

Prepared by the
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February 17, 2012

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February 17, 2012

Supervisor Ken Yeager, Chair
Supervisor Dave Cortese, Member
Board of Supervisors Finance and Government Operations Committee
70 West Hedding Street
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Dear Supervisors Yeager and Cortese:

Pursuant to the direction of the Board of Supervisors, we have completed a management audit of the Office of Pretrial Services, which makes recommendations to judges of the Superior Court regarding whether criminal defendants should be released on their own recognizance pending trial, and supervises defendants required to be supervised as a condition of their release. This audit was conducted under the authority of the Board of Supervisors power of inquiry, as provided in Article III, Section 302(c) of the County Charter. The audit was performed in accordance with government auditing standards of the United States Government Accountability Office.

Although this audit was not selected through the Board of Supervisors' Management Audit Program risk assessment analysis, which identifies and prioritizes areas of County government for future audit, it was recommended by the Finance and Government Operations Committee and approved by the Board of Supervisors. The Office of Pretrial Services has a Fiscal Year 2011-12 budget of \$5,059,184, and staffing of 37 positions.

The audit commenced on January 20, 2011, a draft report was issued on January 12, 2012, and exit conferences were held with the Office of Pretrial Services on January 19, 2012, and with the Department of Alcohol and Drug Services on February 6, 2012. We note that field work for the audit, which occurred in February and March 2011, was suspended thereafter due to other projects assigned a higher priority by the Board of Supervisors, including the review of the County Executives FY 2011-12 Recommended

Budget, a review of Countywide cell phone use, and completion of a study analyzing the highest users of County services. Field work for this audit resumed in September 2011, was completed in December, with the draft report issued in January 2012.

During the audit, numerous Office of Pretrial Services staff were interviewed and observed on the job in the Main Jail and Superior Court courtrooms, and various record samples were reviewed, primarily from the Pretrial Online Production System. In addition, a sample of pretrial services functions in other California counties was conducted to obtain comparable information on specific areas of pretrial services operations, and to identify and compare policies and procedures utilized by other jurisdictions. A variety of research in the pretrial release field was also reviewed, to identify best practices in other jurisdictions nationwide that could be applied in the County of Santa Clara.

Based on the audit procedures described above, six sections with detailed audit findings and 21 recommendations were developed. Implementing these recommendations would better balance Jail Division staffing to workload, enhance Jail Division and Court Division use of the new risk assessment tool for defendants and improve the efficiency of report preparation, enhance the utilization of still-limited drug treatment resources in the County, and ensure that all departments are identifying clients eligible for services under the State's FY 2011-12 realignment program, improve efficiency in the supervision of pretrial clients, and make efficiency improvements in the drug testing process. We estimate that the full implementation of these recommendations would reduce expenditures by \$432,989 to \$1,286,512¹, in the form of reduced Office of Pretrial Services expenditures and reduced jail costs from improvement in pretrial release outcomes. The recommendations also would provide about \$65,000 of additional revenue to support the Valley Medical Center laboratory.

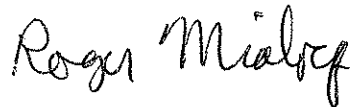
It should be noted that in its written response, the Office of Pretrial Services partially or fully agreed with all the recommendations of this audit. While the Department of Alcohol and Drug Services did not provide a formal written response, the Department Director also indicated he agreed with the proposed recommendations, and thanked the Management Audit Division for identifying issues with the Department's Gateway assessment function of which the Department was not fully aware prior to the audit. As

¹This savings includes \$146,496 in Jail Division staff reductions which have already occurred, \$50,372 to \$67,123 in recommended staff reductions for the drug testing facility, and \$286,121 to \$972,893 in reductions in jail costs due to higher success rates for Pretrial Services clients. The jail savings would include variable jail costs such as food and clothing that are clearly achievable, and jail staff savings, which may or may not occur, depending on other factors that impact jail staffing.

indicated in several places in this report, both departments have already implemented, or are in the process of implementing, the recommendations of this audit. A brief synopsis of the audit and its key findings follows, and the written response from the Office of Pretrial Services begins on page 99.

We would like to thank the Director of Pretrial Services, the Director of Alcohol and Drug Services and the administrative and operational staff in those departments for their cooperation and assistance with the performance of this audit. We would also like to thank representatives of the Office of the District Attorney and the Office of the Public Defender, and a number of Superior Court judges, who were interviewed about their views and experiences with the Office of Pretrial Services, and, in the case of the judges, cooperated with observations we conducted of staff working in courtrooms.

Respectfully submitted,



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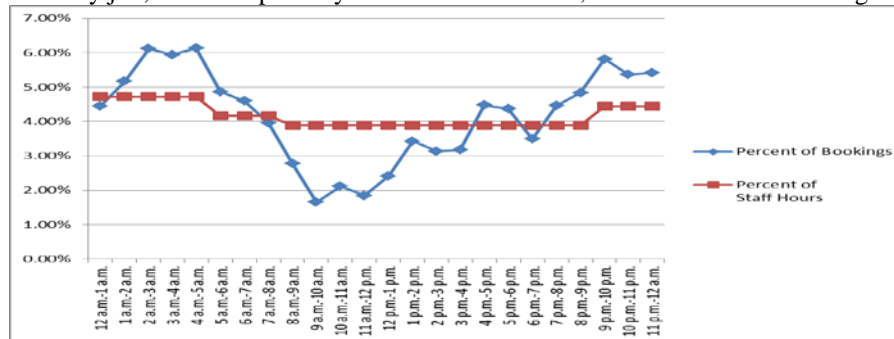
MANAGEMENT AUDIT OF THE OFFICE OF PRETRIAL SERVICES

AUDIT SYNOPSIS

This management audit examined the operations and practices of the Office of Pretrial Services to identify opportunities to increase its efficiency, effectiveness and economy. The audit report contains six major findings and 21 recommendations that would enhance operations of the Office of Pretrial Services and aspects of the Department of Alcohol and Drug Services that serve pretrial release clients, as well as enhancing Countywide implementation of the State's new realignment program. Estimated savings is \$432,989 to \$1,286,512, in the form of reduced Office of Pretrial Services expenditures and reduced jail costs, as well as about \$65,000 in additional revenue to support the Valley Medical Center laboratory.

KEY FINDINGS

- Staffing in the Jail Division, which makes initial recommendations regarding own-recognition release for defendants booked into the County jail, was not optimally matched to workload, as shown in the following table:



A combination of 4-day, 10-hour and five-day, eight-hour shifts would optimize staffing versus workload, and permit reduction of 1.6 positions. The reduction was made, for budgetary reasons, and the Director of Pretrial Services concurs with exploring the schedule change, pending 2012 meet-and-confer negotiations with the relevant labor organization.

- A new risk assessment tool implemented to assist Jail Division and Court Division staff in making release recommendations to judges, has changed the basis for such decisions, in ways that indicated the new tool was having the desired effect. However, the audit found that Jail Division staff often did not clearly state the basis for recommending against releasing defendants that the tool indicated would be eligible for release.
- A two-month sample of Court Division recommendations found 312 of 418 defendants deemed low-risk by the new decision-making tool, 77 percent, and 786 of 850 defendants deemed average risk, 92 percent, were nonetheless not recommended for release. The Director of Pretrial Services reported that his staff, during the period of the audit, had already begun analyzing low risk cases not recommended for release, and would provide additional training to staff.
- Cutbacks in available County-funded substance abuse counseling and treatment programs create substantial delays in Pretrial Services clients getting treatment required by their release, contributing to pretrial release failures and a return to custody. Audit recommendations would improve utilization of the limited treatment resources, and would address lengthy telephone waiting times in the Department of Alcohol and Drug Services Gateway referral system. The audit also found a problem at Gateway in identifying clients eligible for treatment resources under the State's Fiscal Year 2011-12 realignment law. County departments should develop procedures to identify realignment-eligible clients.
- A case rating system used by the Supervision Division to assign cases to staff is not coordinated with a new risk assessment tool used in the Jail and Court divisions, and does not guide selection of supervision strategies, which are largely reactive, and don't vary much from one client to the next. Also, the Supervision Division does not use technology that peer agencies do, such as computerized voice-recognition check-in systems, to allow Supervision Officers to devote more of their time to the most difficult clients.
- About \$65,000 a year spent with a contractor to analyze drug test samples could instead be used to support the Valley Medical Center laboratory, which provides the same service to the Probation Department. In addition, staffing for specimen collection from female clients is inefficient, requiring \$50,372 to \$67,123 in unnecessary staff costs.

A copy of the full report is available at: <http://www.sccgov.org/managementauditor>

Board of Supervisors: Mike Wasserman, George Shirakawa, Dave Cortese, Ken Yeager, Liz Kniss

County Executive: Jeffrey V. Smith

Table of Contents

Executive Summary	i
Introduction	1
Section 1. Matching Jail Division Staffing to Workload	19
Section 2. Reporting Recommendations	
Using the New Risk Assessment Tool	35
Section 3. Increasing the Effectiveness of the PTS	
Risk Assessment Tool	47
Section 4. Supervision and Substance Abuse Treatment	59
Section 5. Enhancing the Supervision Process	75
Section 6. Pretrial Services Drug Testing Center	89
Response of the Office of Pretrial Services	99

Executive Summary

This *Management Audit of the Office of Pretrial Services* was authorized by the Board of Supervisors of the County of Santa Clara as part of the County's Fiscal Year 2010-11 Management Audit Program, pursuant to the Board's power of inquiry specified in Article III, Section 302(c) of the County of Santa Clara Charter. Although this audit was not selected through the Board of Supervisors' Management Audit Program risk assessment analysis, which identifies and prioritizes areas of County government for future audit, it was recommended by the Finance and Governmental Operations Committee, and approved by the Board of Supervisors. This management audit was conducted under the requirements of Board of Supervisors Policy Number 3.35, as revised on July 22, 2010. That policy states that management audits are to be conducted under generally accepted government auditing standards issued by the United States Government Accountability Office.

Purpose and Scope

The purpose of the management audit was to examine the operations of the Office of Pretrial Services, and to identify opportunities to increase its efficiency, effectiveness and economy. The audit was comprehensive, looking at all aspects of the Office's operations, and included interviews and observations of staff in each of the Office's four operating divisions, and analysis of various types of data, primarily from the Office's Pretrial Online Production System. As a result of information generated during the pre-audit survey and field work for this audit, the audit also expanded to look at one aspect of operations in the Department of Alcohol and Drug Services that was determined to be strongly implicated in the success or failure of clients supervised by the Office of Pretrial Services while on pre-trial release by the Superior Court.

Report Highlights

The report contains six major findings and 21 recommendations. Full implementation of these recommendations would enhance operations of the Office of Pretrial Services and the Department of Alcohol and Drug Services, as well as enhancing Countywide

implementation of the State's new realignment program. Implementation of the recommendations is estimated to result in expenditure savings of \$432,989 to \$1,286,512, in the form of reduced Office of Pretrial Services expenditures and reduced jail costs from improvement in pretrial release outcomes. The recommendations also would result in about \$65,000 in additional revenue to support the Valley Medical Center laboratory, offset by undetermined variable costs for the laboratory to process drug tests for the Office of Pretrial Services. Many of the recommendations in this report have been implemented, or are in the process of being implemented, as a result of discussions between Management Audit Division staff and the auditees during the course of the audit. A summary of the major findings and recommendations follows.

Matching Jail Division Staff to Workload

The Office of Pretrial Services Jail Division operates on an around-the-clock basis, making recommendations to judges regarding own-recognizance release for defendants booked into the County Jail, based on review of arrest information, defendants' criminal records and information obtained from interviews. The audit found that the Division's staffing could be better matched to workload through a combination of four-day, 10-hour and five-day, eight-hour shifts, while also permitting a 1.6-FTE staff reduction. During the course of the audit, the Office of Pretrial Services implemented such a reduction in order to comply with its required FY 2011-12 budget target. The Director of Pretrial Services concurs with exploring such a mixed schedule, but cannot implement it immediately, since such a change would require County labor relations staff to meet and confer with the County's labor organization. The Director has asked this issue be included in 2012 negotiations with Service Employees International Union Local 521, which represents Office of Pretrial Services staff.

Reporting Recommendations Using the New Risk Assessment Tool

In January 2011, the Office of Pretrial Services began using a new decision-making tool to assist Jail Division and Court Division in recommending which defendants should be released on their own recognizance. A comparison of samples of defendants found eligible for release by the new tool, but not recommended for release by Jail Division

staff, and defendants not recommended for release in 2010, prior to the new tool being implemented, found that the basis for the decision differed in the two periods, in ways indicating that the tool was having its desired effect. However, the review also found that Jail Division staff were often not clearly stating the basis for recommending against release, when the tool showed a defendant was eligible. The audit recommended continuing to evaluate the use of the new tool, to make sure it is producing the results intended, and developing specific language for officers to use when they are overriding the new tool in order to recommend against release. The Director of Pretrial Services reported that the Office was in the process of having the results of the new tool independently validated, and was developing new procedures to review overrides of the tool by Jail Division staff, with a goal of reducing the override rate.

Increasing the Effectiveness of the PTS Risk Assessment Tool

The Office of Pretrial Services new risk assessment tool is being used by both Jail Division and Court Division staff. In a two-month sample of Court Division recommendations, 312 of 418 defendants deemed low risk by the tool, and 786 of 850 defendants deemed average risk, were nonetheless not recommended for release by Pretrial Services Officers. Meanwhile, analysis of Court Division workloads also found that the Court Division does not receive timely notice of instances where prosecutors choose not to charge a defendant, and therefore no report is needed, and also identified inefficiencies in the preparation of reports for misdemeanor cases, and for cases where additional information is requested by judges. The audit makes recommendations in all these areas. In particular, it recommends further evaluating use of the risk assessment instrument and modifying its use as necessary so that recommendations by Court Division officers more closely follow the tool's results, including providing more specific information in reports as to why release is not being recommended. The Director of Pretrial Services reported that his staff has already begun analyzing cases where low risk defendants are not recommended for release, providing additional training in the use of the tool as needed.

Supervision and Substance Abuse Treatment

About 1,800 persons annually are released from jail on their own recognizance, under supervision by the Office of Pretrial Services Supervision Division. Many of these clients are required to get substance abuse counseling and/or treatment, and get referred to treatment by Gateway, a telephone screening and referral center operated by the Department of Alcohol and Drug Services. Reduced County funding has resulted in a shortage of treatment services and excessive delays for clients attempting to get referrals, contributing to pretrial release failures and a return to custody. A sample of 43 Office of Pretrial Services clients that failed supervised release between October 2010 and March 2011 found 27 were required to get substance-abuse treatment, and 16 of them waited an average of 35 days to get a treatment appointment. The audit recommendations would improve the utilization of existing limited treatment resources, and would also address telephone waiting times in the Gateway system. The audit also identified an issue at Gateway with identifying clients that could be eligible for treatment resources available under the State's Fiscal Year 2011-12 realignment law, and recommended a process to make sure that all County departments develop methods to identify clients eligible for realignment-related programs. If sufficient resources could be made available that all supervised Office of Pretrial Services clients needing treatment could get it promptly, and 90 percent avoided pre-trial incarceration as a result, the savings in avoided jail costs ranged from \$286,121 to \$972,893 annually.

Enhancing the Supervision Process

Interviews with Supervision Division staff, and a review of 43 cases in which supervised release was revoked, showed that a case rating system used by the Division to assign cases is not coordinated with the new risk assessment tool used in the Jail and Court divisions, and does not guide selection of supervision strategies. The review found that supervision is relatively reactive and standardized for most clients, putting the onus on clients to comply with weekly check-in and drug testing requirements, and to monitor their own court dates. The Division also makes limited use of technology in carrying out its supervision responsibilities, compared to peer pretrial services agencies, despite having relatively high caseloads. In particular, because the Division does not

use electronic alcohol monitoring technology, some clients that could feasibly be released, with supervision that incorporates such technology, are not, and remain in custody. The audit recommended developing a system, either using the new risk assessment tool being used by the Jail and Court divisions, or another tool that evaluates client needs, that would permit development of more individualized supervision plans, so that Supervision Division officers could target staff time to the most difficult clients, making more extensive use of face-to-face meetings, multiple check-ins per week, imposition of curfews, and other more intensive supervision tactics. It also recommended pursuing technology that could be used to supervise low-risk clients more efficiently, such as a computerized check-in system that would not require clients to speak directly to a Supervision Division officer, and use of alcohol monitoring technology. Such measures would enhance client chances of success and reduce the failure rate under supervised release, reducing the Main Jail inmate population. The Director of Pretrial Services noted that improvements, such as reminding clients of court dates by telephone, were implemented during the course of the audit, and said that the Office is pursuing a client assessment tool specific to supervision, that would allow more individualized supervision plans to be developed for clients.

Office of Pretrial Services Drug Testing Center

The Office of Pretrial Services collects and tests approximately 10,000 specimens annually from clients who must participate in drug testing as a condition of their release. Two Pretrial Services Technicians collect these samples at a Drug Testing Center located behind the Main Jail, and the specimens are analyzed by a contract laboratory at a cost of about \$65,000 per year. While the cost per unit of services for analyzing the specimens is reasonable, the low volume of female clients makes collection costs expensive, because a full-time staff person is required. The audit recommended restructuring the collection process in order to eliminate the need for a full-time female staff person, saving \$50,372 to \$67,123 annually, and recommended switching the analysis of specimens from the current contractor to the lab at Valley Medical Center, which already provides this service for the Probation Department. This would provide \$65,000 in additional revenue to offset the costs of the VMC lab, offset by the variable testing costs for the additional specimens. The audit also recommended

changes in the process for collecting drug testing fees from clients, for efficiency and security reasons, and changes to the process of receiving test results from the existing contractor. The Director of Pretrial Services reported that use of Valley Medical Center for analysis of specimens would be considered as part of a Countywide review of drug testing, and that the Office of Pretrial Services is also researching a system that uses “instant cup” testing for drug use, a method that provides a preliminary test result that is instantly visible once the urine sample is taken, with positive tests results then confirmed through laboratory testing. This method, because it substantially reduces the number of specimens requiring laboratory testing, is expected to generate savings.

Introduction

This *Management Audit of the Office of Pretrial Services* was authorized by the Board of Supervisors of the County of Santa Clara as part of the County's Fiscal Year 2010-11 Management Audit Program, pursuant to the Board's power of inquiry specified in Article II, Section 302(c) of the Santa Clara County Charter. Although this audit was not selected through the Board of Supervisors' Management Audit Program risk assessment analysis, it was recommended by the Finance and Government Operations Committee and approved by the Board of Supervisors.

Purpose and Scope

The purpose of the management audit was to examine the operations, management practices and finances of the Office of Pretrial Services, and to identify opportunities to improve this department's efficiency, effectiveness and economy.

As part of this audit, the Management Audit Division conducted interviews with the department head, the heads of the four operating divisions of the department, as well as numerous staff in each of those divisions. These interviews often included tours of facilities and direct observations of staff as they conducted their regular duties. We also interviewed key stakeholders of the department's services, including judges, prosecutors and public defender defense attorneys. In addition, we reviewed procedure manuals for the Office of Pretrial Services and academic research regarding various aspects of the pretrial services function, and analyzed various types of data, primarily generated from the department's Pretrial Online Production System. Finally, we conducted a survey of pretrial services functions in the 10 largest California counties, to gather information about staffing and key operating practices in those peer jurisdictions.

Audit Methodology

This management audit was conducted under the requirements of the Board of Supervisors Policy Number 3.35, as revised on July 22, 2010. That policy states that management audits are to be conducted under generally accepted government auditing standards issued by the United States Government Accountability Office. In accordance with these requirements, we performed the following management audit procedures:

Audit Planning-This management audit was recommended by the Finance and Government Operations Committee and approved by the Board of Supervisors. Prior to starting the audit, a preliminary management audit work plan was developed, and the Board's letter of introduction was provided to the auditee.

Entrance Conference-An entrance conference was held on January 20, 2010, with the director of the Office of Pretrial Services, the three Pretrial Services Supervisors and the Administrative Support Officer III that serve as managers of the department's four operating divisions, and the department's Information Systems Manager II, who manages the POPS system and the department's other information functions. The purpose of the entrance conference was to introduce the management audit team, describe the management audit program and scope of review, and respond to questions. The preliminary management audit work plan and a request for background information were also provided at the entrance conference.

Pre-Audit Survey-Audit staff reviewed background documentation on the department, such as its budget, organizational chart and procedure manuals, and conducted interviews with the department head and with the managers of the four operating divisions. We also conducted interviews with line staff and observed them on the job, and with key stakeholders of the department's services, all in order to isolate areas of operations that warranted more detailed assessments. Based on the pre-audit survey, the work plan for the management audit was refined to focus on those areas with the greatest potential for increasing efficiency of operations.

Field Work-Field work activities were completed after completion of the pre-audit survey, and included: (a) additional interviews with managers and line staff, and observations of their work at different times of day and days of the week; (c) further review of documentation and other materials provided by the department, as well as information on best practices in the pretrial services field from academic and industry sources; (d) analyses of data collected from various sources, primarily samples of case information of various types provided from POPS; and, (e) a survey of pretrial services functions in the 10 largest counties, which along with information developed from industry literature, helped to identify organizational and operational alternatives that might warrant consideration by the County of Santa Clara. Field work occurred in March and April 2011, but was interrupted by other assignments from the Board of Supervisors, including the review of the FY 2011-12 Recommended Budget. Field Work was completed in October and November 2011.

Draft Report-On January 12, 2012, an initial draft report was prepared and provided to the director of the Office of Pretrial Services, for review by department management. One section of the report was also provided to the Department of Alcohol and Drug Services of the Santa Clara Valley Health and Hospital System, because the audit had identified the availability of drug treatment resources as a key issue for Office of Pretrial Services clients.

Exit Conference-Exit conferences were held on January 19, 2012 with the Office of Pretrial Services director and his key managers, and on February 6, 2012 with the director of the Department of Alcohol and Drug Services and relevant managers to collect additional information pertinent to our report, to obtain their reviews of the report findings, conclusions and recommendations, and to make corrections and clarifications as appropriate. Following the exit conference, a revised draft was provided to the departments for use in preparing a formal written response.

Final Report-A final report was prepared and issued. Written responses from the Office of Pretrial Services and the Department of Alcohol and Drug Services are attached to the final report.

Purpose of the Office of Pretrial Services

The basic function of the Office of Pretrial Services is to make recommendations to judges in the Superior Court for the County of Santa Clara regarding whether criminal defendants should be released pending trial on a written promise to make their court appearances. This process is known more generally as releasing defendants on their own recognizance, abbreviated as an OR release. The alternative to an OR release is bail, a financial deposit made by the defendant to the court, in the form of money, a bond issued by a bail bondsman, or another method, which is supposed to guarantee the defendant's court appearances, and is forfeited in the event of a failure to appear, or other violations of a court's release order.

A judge's release decision is governed by State law. Penal Code Section 1275 states:

“In setting, reducing, or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. The public safety shall be the primary consideration.”

The section further states that injuries to victims, threats to victims and/or witnesses, use of deadly weapons and the use of controlled substances should be part of evaluating the seriousness of the offense. Furthermore, Penal Code Section 1270 states that defendants charged with misdemeanors, rather than felonies, are entitled to an OR release unless a judge finds that to do so will endanger the public or will not assure the defendant's appearance in court.

These findings, in the case of violent felonies, or allegations of driving while intoxicated, must be documented by judges in a written investigative report. Penal Code Section 1318.1 states:

“A court, with the concurrence of the board of supervisors, may employ an investigative staff for the purpose of recommending whether a defendant should be released on his or her own recognizance.”

The Santa Clara County Board of Supervisors, by establishing the Office of Pretrial Services in the County Ordinance Code, has established the board’s concurrence with the Superior Court on providing the investigative staff permitted. In addition to making recommendations regarding release, the Office of Pretrial Services Jail Division facilitates the completion of documents by judges either approving release of defendants on their own recognizance, or finding that there is a legal basis to detain them, which is known as finding probable cause. By assisting in this function, PTS facilitates the County’s compliance with the 1983 U.S. Ninth Circuit Court of Appeal decision in *Bernard v. Santa Clara County*, (699 F.2d 1023) requiring that warrantless felony arrests receive a judicial ruling, within 24 hours of arrest, as to whether there is probable cause to detain the defendant. A subsequent U.S. Supreme Court decision extended that procedure to misdemeanor defendants that are not released through citation and are expected to remain in custody.

Providing the Office of Pretrial Services is therefore something the County is permitted, but not required to do. However, numerous criminal justice and governmental organizations, including the National Association of Counties, the American Bar Association, the American Jail Association, the International Association of Chiefs of Police, the American Probation and Parole Association, and the American Council of Chief Defenders, have endorsed the idea of pretrial release programs that evaluate the risks for releasing defendants

In noting these statements, Management Audit staff also notes that we were not able to find any generally accepted research that directly compares the effectiveness of pretrial services programs versus financial bail in assuring defendants’ court appearances and protecting public safety. One often-cited statistic, from a 2007 Bureau of Justice Statistics report which tracks felony case processing in large jurisdictions, and seemed to suggest that failure-to-appear rates were lower for financial bond defendants than for pretrial services defendants, was disavowed by the agency, which stated:

(T)he data are insufficient to explain causal associations between the patterns reported, such as the efficacy of one form of pretrial release over another. To understand whether one form of pretrial release is more effective than others, it would be necessary to collect information relevant to the pretrial release decision and factors associated with individual misconduct. . . . For reasons related to costs and data availability, these measures are not currently collected in SCPSP (State Court Processing Statistics Project). . . . Any evaluative statement about the effectiveness of a particular program in preventing pretrial misconduct based on SCPS is misleading. BJS does not support such use of these data.”

Based on the support statements from relevant organizations, and lack of research directly comparing pretrial services programs with the alternative, we view the County’s decision to follow Penal Code Section 1318.1 as a policy decision for the Board of Supervisors. Accordingly, we have directed this audit toward improving the effectiveness and efficiency of the Office of Pretrial Services, not assessing whether it should exist.

Structure, Staffing and Budget of the Office of Pretrial Services

For Fiscal Year 2011-12, the Office of Pretrial Services was budgeted for expenditures of \$5,059,184, and staffing of 37 positions. About 86 percent of the department’s budget, or \$4.4 million, is devoted to salary and benefit costs. PTS was also budgeted for approximated \$572,000 in revenue. The bulk of this revenue, about \$500,000 annually, is received via a contract with the Family Law Division of the Superior Court to provide criminal background checks in civil Family Law cases where the Court is considering issuing restraining orders and protective orders, and orders for background checks on proposed guardians and conservators. The contract pays for two Pretrial Services Officer II positions, part of PTS’ Court Division, and two Justice System Clerk II positions, part of the clerical staff in the Administration and Support Services Division. The PTS staff is divided into four operating divisions, as follows:

Jail Division-As discussed in more detail in Sections 1 and 2 of the audit, the Jail Division makes the initial recommendation to judges and magistrates as to whether criminal defendants brought into custody at the Main Jail should be released on their own recognizance, based on their charges, criminal history and other relevant data gathered from law enforcement agencies, criminal history databases and defendant interviews. The recommendation is informed by a risk assessment tool that analyzes key questions about the defendant, and provides a recommendation as to the defendant's risk of failing to appear in court or being a danger to the public if released. As previously discussed, Jail Division staff also facilitate the completion of documents by judges and magistrates to either authorize the release of defendants, or to find probable cause for their detention. According to PTS managers, based on their discussions with other California pretrial agencies, the County of Santa Clara is the only jurisdiction in the State whose process permits pretrial defendants to be released on their own recognizance directly from jail, without going before a judge in person. Fiscal Year 2011-12 Jail Division staffing is 7.0 full-time equivalent Pretrial Services Officer positions, working various shifts, as this function is staffed 24 hours a day.

Court Division-As discussed in more detail in Section 3 of the audit, Court Division Pretrial Services Officers are assigned to specific courts in the County. They will follow-up the work of the Jail Division to gather more information on defendants in association with their court appearances, and may revise previous Jail Division recommendations regarding release, based on the new information. They also serve as liaisons between the courts where they serve and the rest of the Office of Pretrial Services, such as contacting Supervision Division officers when a defendant fails to make a court appearance, or presenting reports from the Supervision Division in court. Court Division officers also provide supervision of some lower-risk defendants. FY 2011-12 Court Division staffing is 9.0 FTE Pretrial Services Officer Positions.

Supervision Division-The Supervision Division, discussed in more detail in Sections 4 and 5 of the audit, oversees criminal defendants who are released, but are ordered to be supervised regarding compliance with release orders. Defendants typically report weekly to their assigned officer, who also monitors their compliance with drug testing and treatment requirements, current living status, attendance at court hearings and

other release requirements. Fiscal Year 2011-12 Supervision Division staffing is 5.0 FTE Pretrial Services Officers, as well as 2.0 Pretrial Services Technician positions assigned to the department's drug testing station, which is discussed in Section 6 of the audit.

Administration and Support Services Division-This division includes an Administrative Services Officer III responsible for the department's budget and finances, and clerical staff that serve as receptionists for the department and primarily assist Court Division staff with criminal records retrieval and other clerical functions. It also includes the Office of Pretrial Services director and his executive assistant. Total Fiscal Year 2011-12 staffing from the Division is 10.0 FTE positions. We have also counted in this Division the department's information technology staff person, who maintains the Pretrial Online Production System, and reports directly to the director.

Survey of Pretrial Services in Other Counties

In order to better understand the services provided and the caseload of staff in the Santa Clara County Pretrial Services Department, we surveyed Pretrial Service programs, in ten of the most populous counties in California. The nine counties that responded to our survey were Alameda, Contra Costa, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Francisco, and Ventura.

Where appropriate, information collected from the surveys is included in various sections of the audit report. It should be noted that the survey responses contain self-reported information. The Management Audit Division did not verify the accuracy of information submitted. A summary of the full survey responses is included as attachment I.2 at the end of the Introduction.

Based on a review of the survey responses, Santa Clara County appears to have the most comprehensive Pretrial Services Department in consideration of the number of Pretrial Services staff, number of Pretrial Services officers that appear in Court, the number of recommendation for releases that are both provided to and accepted by Judges, the supervision caseload, and the sophistication of data systems.

In terms of Jail, Court and Supervision staffing, the County of Santa Clara Office of Pretrial Services has more staff persons than any other Pretrial Services department, with 37.0 full time employees. Los Angeles County has the second-largest non-clerical staff count of 22 full time employees. San Francisco County has the third largest non-clerical staff count with 18 full time employees.

Six of the nine counties reported that clerical staff works directly in support of Pretrial Services officers. Most counties have fewer than five clerical support staff persons, with the exception of Los Angeles, which reported 21 clerical support staff persons. In Los Angeles and San Diego Counties, clerical staff performs duties completed by Court and Supervision officers in Santa Clara. In Los Angeles clerical staff contacts released clients by telephone to remind them of pending court dates. In San Diego, clerical staff prepares reports, interviews defendants, contacts references, and assists with the supervision of caseload by taking phone and office visit check-ins.

In terms of release recommendations, only in Riverside and San Diego counties do Pretrial Services Officers make recommendations for both supervised and non-supervised release. In Alameda and Orange Counties officers make recommendations for non-supervised release. Counties generally do not track whether judges accept release recommendations. Exceptions include Alameda County, where 620 of 2,113 recommendations for supervised release made in 2010 were accepted by judges, and Riverside County, where all recommendations for release were accepted.

In addition to in-custody felony cases, Pretrial Services officers in five of nine Counties make release recommendations for misdemeanor cases and self surrender cases, and four out of nine counties conduct interviews to inform release recommendations for misdemeanor and self surrender cases.

In terms of supervision, San Diego and San Francisco are the only counties with formal Pretrial Services supervision programs in place. Pretrial Services officers in San Diego typically manage between 25 and 30 supervision cases each. In San Francisco, officers are not given specific assignments, rather staff work together to handle the caseload. With regard to drug and mental health counseling offered through Pretrial Services, in

San Francisco clients are assigned to treatment providers within one week from the date they first meet with a Pretrial Services officer. In San Diego assignments may take between two and four weeks. In response to our question of whether Pretrial Services clients are assigned alternative supervision technologies, San Diego was the only county to indicate that clients may be assigned to electronic alcohol monitoring by a Judge and that the client is responsible for paying costs associated with this monitoring.

Accomplishments of the Office of Pretrial Services

During the exit conference for this audit, the Director of the Office of Pretrial Services and management staff were asked to provide their assessment of the Office's major accomplishments. The Office provided information on major accomplishments in Calendar Year 2011, which we have summarized as follows:

- Implemented, with assistant from a consultant, a localized version of the Virginia Model Risk Assessment Instrument in the County of Santa Clara for use in release recommendations by the Jail and Court Divisions, including training Office of Pretrial Services staff on the bases of the instrument and its use, providing training to the Office of the Public Defender to explain how the instrument is expected to work, providing training for all Superior Court judges on the instrument, and gathering data on decision-making results from the new instrument, for preparation by the Pretrial Justice Institute of a study to verify the statistical validity of the new instrument.
- Eliminated a full-time management position in January 2011, and 3.6 staff positions for the FY 2011-12 budget in order to successfully meet budget reduction targets. Along with consulting services reductions, the Office achieved a \$500,000 savings. The Office also adopted a policy requiring director approval for overtime.
- Completed a full revision of the Office's policy and procedures manual, and developed a performance measures database, as recommended by the National Institute of Corrections.

More broadly, the Office of Pretrial Services also noted its role in helping keep pretrial criminal defendants out of jail when it is safe to do so, thereby reducing jail costs. For the last six months of Calendar Year 2011, July 1 through December 31, PTS calculates that 197,051 jail days were avoided, based on the actual number of clients released on their own recognizance during this period. Based on a cost of \$204 per inmate per day obtained from the Sheriff's Department staff for the Main Jail, this represents a savings of \$40.2 million. Based on the blended cost of \$159 per inmate per day for all jail facilities, the savings amounts to \$31.3 million.

Recommendation Priorities

The priority rankings shown for each recommendation in the audit report are consistent with the audit recommendation priority structure adopted by the Finance and Government Operations Committee of the Board of Supervisors, as follows:

Priority 1: Recommendations that address issues of non-compliance with federal, State and local laws, regulations, ordinances and the County Charter; would result in increases or decreases in expenditures or revenues of \$250,000 or more; or, suggest significant changes in federal, State or local policy through amendments to existing laws, regulations and policies.

Priority 2: Recommendations that would result in increases or decreases in expenditures or revenues of less than \$250,000; advocate changes in local policy through amendments to existing County ordinances and policies and procedures; or, would revise existing departmental or program policies and procedures for improved service delivery, increased operational efficiency, or greater program effectiveness.

Priority 3: Recommendations that address program-related policies and procedures that would not have a significant impact on revenues and expenditures, but would result in modest improvements in services delivery and operating efficiency.

Acknowledgements

We would like to thank the Director of the Office of Pretrial Services, his managers and the Department's staff for their cooperation and assistance throughout this management audit. Staff were open, cooperative and eager to explain their work, and to explore methods by which the Office of Pretrial Services can improve its operations and level of service to County residents. Managers, supervisors and line staff provided much of the data contained in the report to audit staff, and certain recommendations are the result of interviews with managers and other staff during the course of the audit. We would particularly like to thank Miguel Aguayo, the Department's information technology specialist, who generated many of the data downloads that were used for analysis in the audit.

	Alameda	Contra Costa	Los Angeles	Orange	Riverside	San Bernadino	San Diego	San Francisco	Ventura
Staffing									
1. Please provide total line pretrial services officer staffing in full-time equivalents (FTEs) of the following key functions of your department. Line staffing does not include management staff, and also may include extra help and intern positions, if those positions carry out the regular duties of the unit.:									
Jail Unit/ Interviewing	2	10	11	12	14	6	0	12	4
Court Unit	0	2	11	3	0	0	16.5	3	0
Supervision Unit	1	0	0	1	2	0	0	3	0
2. Does your department have clerical staff that work directly in support of pretrial services officers, as opposed to serving as receptionists, administrative assistant to the department director, account clerk functions, etc.?									
Yes		X	X	X	X		X		X
No	X					X		X	
3. How many of these clerical FTEs work in your department?									
		3	21	1	2		4		40 for the entire Probation Department

	Alameda	Contra Costa	Los Angeles	Orange	Riverside	San Bernardino	San Diego	San Francisco	Ventura
4. Briefly describe the Clerical Staff primary duties			Our clerical staff perform their normal and customary duties, and do data entry into our various case management systems. In addition they contact released clients by telephone to remind them of pending scheduled court dates.	As a continuing primary responsibility, perform complex office work involving the analysis of a variety of source materials and a thorough understanding of policies, procedures, terminology and various applicable regulations in order to obtain necessary data.	Clerical duties, pre-trial supervision (call-in & testing)		Research state, national, and DMV records via the CA Law Enforcement Telecommunications System (CLETS). Interpret the information and prepare criminal history reports on Arraignment cases. Interview defendants as needed and contact references. Assist with the supervision of caseload by taking phone and office visit check-ins. Complete criminal history on Name Change, Expungement, Temporary Restraining Order, Diversion, and Probation requests. Perform regular clerical duties such as maintaining office supplies, filing, etc.		Book/ release/ process court dates/ reception counter, visiting
5. Are there periods when the Jail Unit function is not staffed?		Files, clets, typing, copy, court run							
Yes		No response	X		X	X	X	X	
No	X			X					X

	Alameda	Contra Costa	Los Angeles	Orange	Riverside	San Bernadino	San Diego	San Francisco	Ventura
6. What periods are not staffed by the Jail Unit function?									
			1:am-6:30am, seven days per week		Most shifts cover from 6am to about 8pm only	8:30 p.m. to 5:00 a.m. each day	No Jail function	11:00pm to 6:00am	
		No response							
7. Are pretrial officers outside of the Jail Unit required to conduct Jail Unit work during low jail workload periods, such as interviewing inmates or references?									
Yes		x					n/a		
No	x		x	x	x	x		x	x
8. When are pretrial officers outside of the Jail Unit required to conduct Jail Unit work during low jail workload periods, such as interviewing inmates or references?									
		Pre-sentence reports for Court	n/a		n/a		Court Unit conducts all interviews		as needed
9. What shifts, if any, is your Jail Unit routinely staffed with only one officers?									
				Two Officers are assigned to each shift at the jail each day.	Saturday & Sunday	none	No jail unit	Swing Shift (3:00 pm to 11:00 pm)	never
		n/a	no						
10. How many Court Officers are present during court sessions on a daily basis?*									
	3	1	0	3	n/a	10*	1	2	1 or 2
*Responses likeley refers to Officers from the Probation Dept, so is not included in discussion of survey results									
Release Recommendations									
1. Do pretrial officers make release recommendations for defendants in misdemeanor cases?									
Yes			x	x			x	x	x
No	x	x			x	x			
2. Do pretrial officers conduct interviews to inform release recommendations for defendants in misdemeanor cases?									
Yes			x	x			x	x	x
No	x	x			x	x			
3. Do pretrial officers make release recommendations for defendants in self-surrender cases?									
Yes			x	x	x	x	x	x	x
No	x	x						x	x

	Alameda	Contra Costa	Los Angeles	Orange	Riverside	San Bernardino	San Diego	San Francisco	Ventura
4. Do pretrial officers conduct interviews to inform release recommendations for defendants in self-surrender cases?									
Yes			X	X	X		X		
No	X	X				X			X
5. Indicate the number of recommendations that were made to a judicial officer at first appearance during CY 2010.									
Non-Supervised OR	2,113	n/a	no response	2,949	479	0	10	0	n/a
Supervised OR	no response	n/a	no response	n/a	2,535	n/a	266	0	n/a
OR Not Recommended	no response	n/a	no response	22,976	8,401	n/a	195	0	n/a
6. Indicate the number of recommendations that were accepted by a judicial officer at first appearance during CY 2010.									
Non-Supervised OR	620	n/a	no response	not tracked	479	n/a	not tracked	0	n/a
Supervised OR	no response	n/a	no response	n/a	2,535	n/a	not tracked	0	n/a
OR Not Recommended	no response	n/a	no response	not tracked	8,401	n/a	not tracked	0	n/a
7. Does your department make recommendations to officers between the first and second court appearances when a defendant's release eligibility status has changed?									
			Generally no, unless a previous ineligible defendant has a court-ordered request for a Bail Hearing, thus changing his/her eligibility						
Yes				X		X		X	
No	X	X			X		X		X
8. Indicate the number of recommendations accepted by the judicial officer between the first and second appearance during CY 2010.									
Non-Supervised OR			no response	not tracked	not tracked	n/a	n/a	0	n/a
Supervised OR			no response	n/a	n/a	n/a	n/a	281	n/a
OR Not Recommended			no response	not tracked	n/a	n/a	n/a	506	n/a

	Alameda	Contra Costa	Los Angeles	Orange	Riverside	San Bernadino	San Diego	San Francisco	Ventura
Supervision Caseload									
1. What is a typical caseload for an officer overseeing supervised own recognizance clients in your department? If there are officers whose primary duties are supervision, and other officers who combine supervision with either jail or court functions, provide this information separately for each group.									
	Our office doesn't supervise clients, we remind them of their court dates	n/a	No Supervised Release Program	We do not supervise O/R'd defendants from this unit.	n/a	n/a	25-30	no specific assignments; everyone works on caseload	no response
2. Is there a specific caseload limit or standard in your department?									
Yes			n/a		x				
No	x	x		x		x	x	x	
3. What is the limit or standard?									
		no response		no response	Minimum of 5 interviews/ applications per investigator per day				no response
4. Typically, how many days does it take a client who is required to participate in drug or mental health counseling to be assigned to a treatment provider, from the date they first meet with the pretrial services officer that is supervising them?									
	no response	no response	n/a	no response	1 week		2-4 weeks	One week or less	no response
5. How many of your supervision clients are assigned alternative supervision technologies, such as electronic movement monitoring, electronic alcohol monitoring and geographic positioning system monitoring?									
Electronic movement monitoring	no response	no response	no response	no response	no response	no response		no response	no response
Electronic alcohol monitoring	no response	no response	no response	no response	no response	no response	x	no response	no response
GPS	no response	no response	no response	no response	no response	no response		no response	no response

	Alameda	Contra Costa	Los Angeles	Orange	Riverside	San Bernardino	San Diego	San Francisco	Ventura
6. Describe how eligibility for these programs is determined, and how they are funded.	n/a	no response	n/a	This unit does not make recommendations on alternative technology programs. that is usually handled by the County Probation department.	n/a -- planning stages/in progress	not tracked	Judge makes order, client has to pay		

Section 1. Matching Jail Division Staffing to Workload

Background

- The Office of Pretrial Services (PTS) Jail Division makes recommendations to judges regarding own-recognition release for defendants booked into the County Jail, based on review of arrest information, defendants' criminal records and information obtained from interviews.

Problem

- However, this unit operates on an around-the-clock basis, with relatively constant staffing levels, even though workload varies significantly by time of day and day of the week.

Adverse Effect

- As a result, the Office of Pretrial Services incurs unnecessary salary and benefit costs estimated to amount to \$146,496 annually.

Recommendation, Savings and Benefit

- By better matching staffing to workload, the Office of Pretrial Services could eliminate 1.6 FTE Pretrial Services Officer positions, reduce extra help costs by about \$44,307, and permanent salary and benefit costs by \$102,189, for total savings of \$146,496.

Subsequent to preparation of the analysis on which this finding was based, PTS eliminated 1.6 FTE positions and revised its staffing schedule to meet its FY 2011-12 budget reduction target, resulting in a budget reduction of \$178,200. However, PTS should review the staffing structure proposed in this section, to determine if it better matches staffing to workload than does the schedule now in place. If so, the new schedule should be implemented, once permitted under the County's labor agreements related to the Office of Pretrial Services.

Jail Division Duties, Staffing and Workload

The Office of Pretrial Services (PTS) Jail Division is responsible for making recommendations to judges or magistrates whether criminal defendants that have been arrested and brought to the County Jail should be released on their written promise to

appear in court, without financial bail, and either with or without supervision from PTS' Supervision Division. The Jail Division is usually the first PTS unit criminal defendants come in contact with.

In order to make its recommendations to judges, Jail Division staff review affidavits provided by law enforcement agencies describing the circumstances and criminal charges that resulted in a defendant's arrest, criminal history information obtained from several different databases, including the County's Criminal Justice Information Control system, and information obtained by interviewing defendants, and verified by telephone with references, on each defendant's living and work situation, any current or past substance abuse or mental health problems, the name and contact for the victim of the crime, if the defendant knows, and other key questions. Jail Division staff enter this information into the Pretrial Online Production System (POPS). They then use this information to answer a series of questions in the new risk-assessment tool implemented by PTS in 2011, which generates a numerical score indicating whether the defendant, is a low, average, above average or high risk to abscond from court appearances or be a danger to the public if released. Jail Division staff summarize this information, and their release recommendation, in a report provided to the judge or magistrate deciding whether to release the defendant. Interviews are conducted with all felony defendants arrested by police and brought to the jail on new charges, and those arrested on outstanding warrants, with the exception of any defendant charged with homicide. Misdemeanor defendants brought to the jail have their criminal records and the circumstances of the case entered into POPS, but are not interviewed. Jail Division staff also prepare documents for the judge or magistrate to sign either approving a defendant's release, or finding probable cause to detain the defendant, as described in the Introduction to this report. As noted in the Introduction to this report, this process allows defendants to be OR released directly from jail on the judge's signature, without appearing in court in person. According to the Director of Pretrial Services, his discussions with peers indicate that the County of Santa Clara is the only California county where this occurs.

To carry out this function, the Jail Division at the start of this audit was staffed by eight full-time Pretrial Services Officer positions, one a PTSO III position that serves as a lead

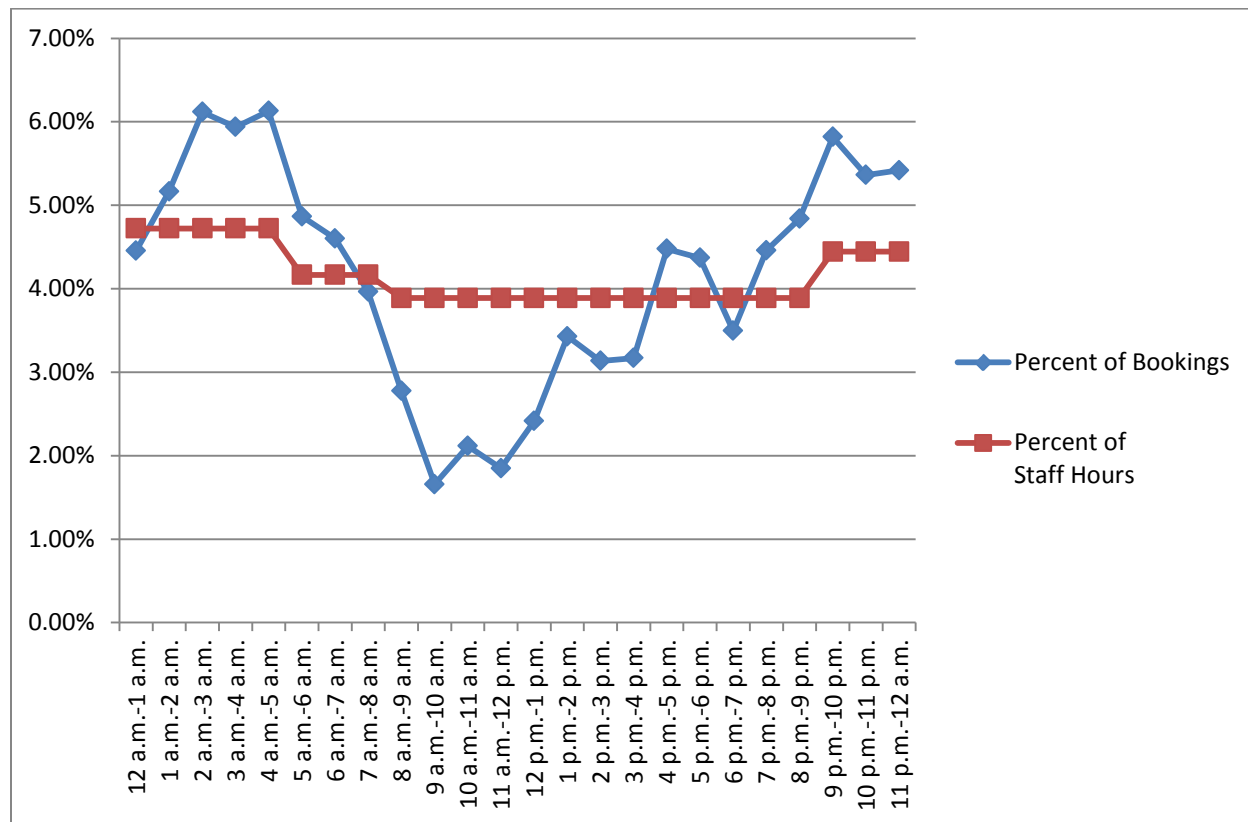
worker for the unit, and the others PTSO IIs. There are also six extra-help positions, which have been used to cover vacancies, vacations, sick days, etc. An extra-help person was being used to fill a 0.6 FTE shift which PTS had not been able to fill permanently.

Because people may be arrested at any time of the day or night and brought to the jail, and because Penal Code Section 825 requires all defendants to be brought before a magistrate within 48 hours after their arrest to determine if there was probable cause to arrest and detain them, while a court decision requires the County of Santa Clara to make this determination within 24 hours, and because a key purpose of the Jail Division process is to promote cost savings and preserve Main Jail space by releasing defendants that can be released safely, the Jail Division is staffed at all times.

At the start of this audit, standard practice was to staff the Division with at least two Pretrial Services Officers at all times, and add a third officer during very busy periods. Shift times were staggered, with staff starting at midnight, 6 a.m., 8 a.m. 2 p.m. 4 p.m. and 10 p.m. All staff worked eight-hour shifts.

This primarily constant staffing differs from the actual workload pattern. The following chart compares the percentage of staffing provided during each hour of the day, under the current staffing model, with the percentage of workload, based on 17,738 bookings processed by Jail Division staff in 2010.

Chart 1.1
Percent of Pretrial Services Jail Division Staffing
Versus Percentage of Bookings Processed, By Hour



As the table shows, staffing is relatively constant, but workload is not, peaking in the early morning hours, as staff process arrests occurring during the previous day and evening, dropping as the sun rises and reaching its low during about the middle of the day, then rising again in the evening, as criminal and police activity accelerates.

A more detailed review of this data shows that the peaks and valleys shift somewhat, depending on the day of the week. Peak workload periods occur on Friday and Saturday nights, and in the early morning hours on Saturday, Sunday and Monday, which again appears to follow the period of criminal activity, as well as the fact that legally, defendants arrested on Friday and Saturday need to go before a magistrate no later than Monday morning. Late night hours are not as busy in the middle of each

week, and the lowest workload periods on all days are in the middle of the day, particularly on Tuesday, Wednesday and Thursday. A chart showing these workload patterns by hour of the day and day of the week is provided at the end of this section.

Management Audit Division staff attempted to address this imbalance between staffing and workload by developing an alternative staffing schedule, that would provide equal or greater staffing during heavy workload periods than the present schedule, while generating savings by reducing staffing to one Pretrial Services Officer during the lowest workload periods, thereby allowing one or more staff positions to be eliminated. We were helped in this regard by the fact that staff in the Jail Division, who choose when they work through a bidding process that also encompasses Pretrial Services Officers in the Court Division and Supervision Division, may end up working relatively different shifts on different days. For example, one Officer interviewed for the audit was, at the time of the interview, starting work at 8 a.m. three days a week, 6 a.m. on another day, and 10 p.m. on the final day of his work week.

The table on the following page compares our revised schedule, by Pretrial Services Officer position, with the existing schedule. Our revised schedule uses a combination of staff working four 10-hour days, and staff working five eight-hour days, to maintain coverage with fewer staff positions, as:

Table 1.1

Current Versus Proposed Jail Division Staff Schedule

<u>Officer Position</u>	<u>Current Schedule</u>	<u>Proposed Schedule</u>
Officer 1	Th.-Fri. 8 a.m.-4 p.m. Sat.-Sun., 6 a.m.-2 p.m. Mon. 10 p.m.-6 a.m. Off Tu-Wed.	Fri.-Sat. 12 a.m.-10 a.m. Sat.-Sun. 10 p.m.-8 a.m. Off Tu.-Th.
Officer 2	Mon-Fri. 6 a.m.-2 p.m. Off Sat.-Sun.	Mon.-Fri. 6 a.m.-2 p.m. Off Sat.-Sun.
Officer 3	Sat.-Tu. 8 a.m.-4 p.m. Off Wed.-Th.	Position Eliminated
Officer 4	Mon-Fri. 4 p.m.-12 a.m. Off Sat.-Sun.	Mon., Tues, Thurs., Fri. 4 p.m.-12 a.m. Wed. 2 p.m.-10 p.m. Off Sat.-Sun.
Officer 5	Tu-Sat. 10 p.m.-6 a.m. Off Sun.-Mon.	Th., Sun. 8 p.m.-6 a.m. Fri.-Sat. 10 p.m.-8 a.m. Off Mon. Wed.
Officer 6	Sun.-Th. 12 a.m.-8 a.m. Off Fri.-Sat.	Sun.-Wed. 12 a.m.-8 a.m. Wed. 10 p.m.-6 a.m. Off Thu.-Fri.
Officer 7	Fri. 9 p.m.-5 a.m. Sat.-Sun. 4 p.m.-12 a.m. Mon.-Tu. 2 p.m.-10 p.m. Off Wed.-Th.	Fri. 9 p.m.-5 a.m. Sat.-4 p.m.-12 a.m. Sun.-Tue. 2 p.m.-10 p.m. Off Wed.-Th.
Officer 8	Wed.-Sun. 2 p.m.-10 p.m. Off Mon.-Tu.	Thu.-Fri. 2 p.m.-12 a.m. Sat.-Sun. 10 a.m.-8 p.m. Off Mon-Wed.
Officer 9	Fri.-Sat. 12 a.m.-8 a.m. Sat. 9 p.m.-5 a.m. Sun. 10 p.m.-6 a.m.	Eliminated

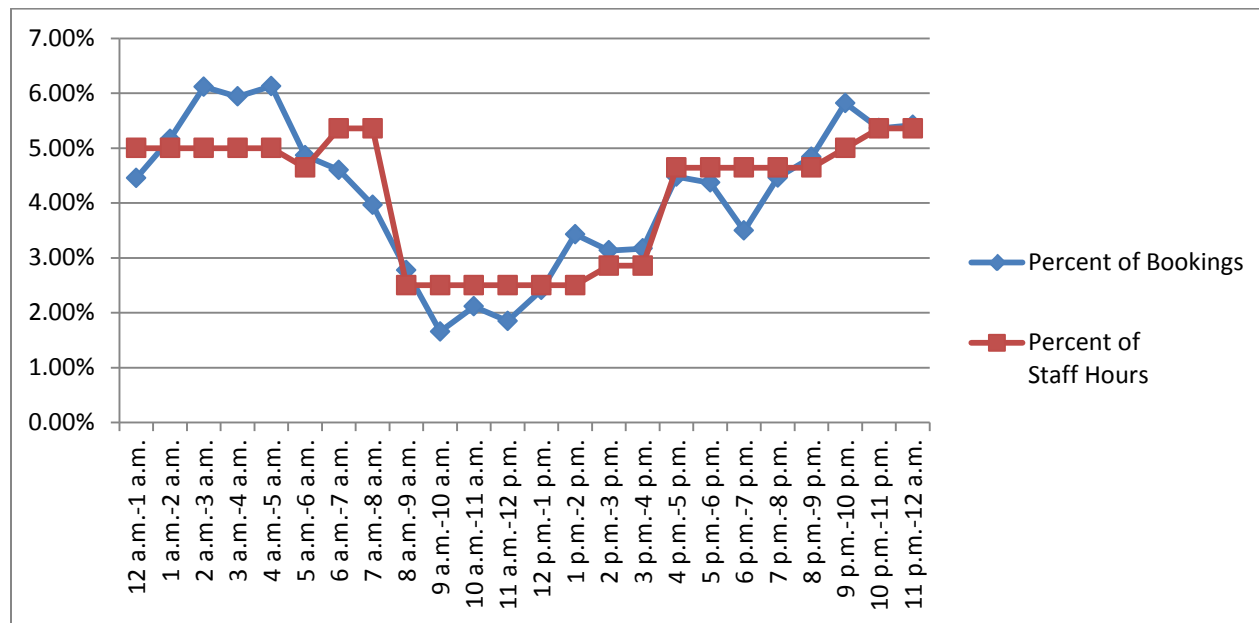
Key features of our revised schedule include the following:

- The new schedule eliminates the current need for extra help to cover three shifts. Based on the wage and limited benefits cost of \$28.89 per hour for a Pretrial Services Officer I at Step3, and assuming a requirement to provide 1,664 hours of labor in such shifts yearly (32 hours a week, times 52 weeks), eliminating this coverage need results in a savings of \$48,073 annually.
- The new schedule also eliminates one of the eight permanent Pretrial Services Officer II positions, for a salary and benefit savings of \$102,189. Virtually all of the Office of Pretrial Services budget goes to pay for staff, so savings in this department is largely dependent on figuring out ways to provide the service with fewer staff positions.
- The proposed schedule provides a five-day, eight-hour (5/8) schedule for four Pretrial Services Officers, and a four-day, 10-hour (4/10) schedule for three Pretrial Services Officers. Four officers under the existing schedule have at least one weekend day off under the present schedule, while only two 5/8 staff do under the revised plan. However, the three 4/10 officers have three consecutive days off. Also, the revised schedule requires some officers to end a shift and start a shift within the same 24-hour period, such as ending a shift at 5 a.m. on Saturday morning, and starting their next shift at 4 p.m. the same day.
- The revised schedule concentrates staff in the busiest periods, so that at least three staff members are available from 9 p.m.-5 a.m. Friday-Saturday, 10 p.m.-8 a.m. Saturday-Sunday, and midnight-8 a.m. on Monday. On the other hand, the revised schedule also has periods when only one staff person is scheduled. These are: 10 p.m.-2 p.m. Sunday; 8 a.m.-4 p.m. Monday and Tuesday, 10 p.m. Monday to 6 a.m. Tuesday; 8 a.m.-midnight on Wednesday, midnight to 4 p.m. Thursday; and, 10 a.m.-4 p.m. Friday. Absences during these shifts will have to be covered by extra help or overtime.

- Also, one two-hour period, 8 a.m.-10 a.m. Sunday, is left unstaffed, which means no interviews would be conducted, and inmates in custody would have to wait in the Main Jail holding area until they could be interviewed. Management Audit staff surveyed pretrial services offices in the 10 largest California counties, including questions about periods in which their jail function was staffed with only one person, and periods when the function was not staffed at all. Los Angeles, Riverside and San Bernardino counties, and the City and County of San Francisco, responded to these questions. All four counties reported not staffing their jail function for various portions of the overnight period, with the unstaffed period being as small as 1 a.m. to 6:30 a.m., to as long as 8:30 p.m. to 5 a.m. Riverside County also reported that its jail function is only staffed with one person on Saturdays and Sundays, while San Francisco reported using only a single staffer on the 3 p.m. to 11 p.m. shift. We do not recommend these options in Santa Clara County, because they don't match the booking workload, but provide the information to show that reduced staffing occurs in other counties.

To show that the revised staffing schedule more closely matches staffing to workload, we provide the following chart, similar to chart 1.1, which compares the percentage of staff provided during each hour of the day and day of the week with the general pattern of bookings by hour of the day.

Chart 1.2
Percentage of Staffing Vs. Workload
Under Proposed Alternative Staffing Plan



As the chart shows, the allocation of staffing under the proposed new staffing plan more closely tracks the workload pattern by hour of the day than did the previous staffing plan.

To further illustrate the advantages we believe an alternative staffing pattern would provide, we also calculated, separately for the Monday through Thursday period and the Friday through Sunday period, the average variance between workload and staffing by hour of the day for the staffing pattern in effect at the start of the audit, and our proposed alternative combining 4/10 and 5/8 shifts. The variance calculation compared the percentage of staffing provided for each hour of the day with the percentage of workload occurring during that same hour of the day, and calculated the average variance as an absolute value, because our concern was the magnitude of the variance between staffing and workload, not whether that variance was positive or negative. The table on the next page shows the results of that calculation.

Table 1.2
Percentage Variance Staffing to Workload,
By Time of Day and Part of Week

<u>Hour of Day</u>	Monday Through Thursday		Friday Through Sunday	
	<u>Existing</u>	<u>Proposed</u>	<u>Existing</u>	<u>Proposed</u>
12 a.m.-12:59 a.m.	7.88%	5.25%	23.29%	31.51%
1 a.m.-1:59 a.m.	14.05%	11.59%	3.44%	3.00%
2 a.m.-2:59 a.m.	33.67%	31.78%	9.83%	3.81%
3 a.m.-3:59 a.m.	26.85%	24.76%	13.92%	8.18%
4 a.m.-4:59 a.m.	29.44%	27.42%	16.23%	10.64%
5 a.m.-5:59 a.m.	11.76%	9.24%	16.39%	0.33%
6 a.m.-6:59 a.m.	2.22%	34.10%	17.00%	0.40%
7 a.m.-7:59 a.m.	22.45%	67.93%	9.96%	8.05%
8 a.m.-8:59 a.m.	103.04%	39.23%	1.37%	40.82%
9 a.m.-9:59 a.m.	294.02%	170.18%	50.76%	9.54%
10 a.m.-10:59 a.m.	118.66%	49.94%	51.54%	9.07%
11 a.m.-11:59 a.m.	118.66%	49.94%	99.29%	19.57%
12 p.m.-12:59 p.m.	57.30%	7.86%	67.22%	0.33%
1 p.m.-1:59 p.m.	18.79%	18.54%	6.97%	35.82%
2 p.m.-2:59 p.m.	18.44%	18.78%	33.47%	6.78%
3 p.m.-3:59 p.m.	17.74%	19.26%	29.89%	3.92%
4 p.m.-4:59 p.m.	11.96%	5.65%	14.42%	2.69%
5 p.m.-5:59 p.m.	16.40%	0.33%	1.70%	17.96%
6 p.m.-6:59 p.m.	6.12%	27.35%	19.74%	43.69%
7 p.m.-7:59 p.m.	18.78%	2.54%	2.36%	17.17%
8 p.m.-8:59 p.m.	18.45%	11.84%	20.93%	20.93%
9 p.m.-9:59 p.m.	19.44%	10.48%	27.35%	34.61%
10 p.m.-10:59 p.m.	22.12%	19.90%	11.83%	19.03%
11 p.m.-11:59 p.m.	28.42%	26.38%	3.97%	29.64%
Average	43.19%	28.76%	23.04%	15.73%
Median	19.12%	19.58%	16.31%	10.09%

As the table shows, under the existing staffing pattern, the median variance in staffing versus workload for any hour of the day is about 19 percent for the Monday through Thursday period, and 16 percent for the Friday through Sunday period. In other words,

for an average hour from Monday through Thursday, the proportion of staffing provided for that hour could be 19 percent greater or less than the proportion of workload that occurs during that hour. We have used the median, rather than the average, to account for some values in the table that have very wide variances, such as the 9 a.m. period, where the proportion of staffing is about three times higher than the proportion of workload. The table further shows under our alternative staffing proposal, the variance is about the same from Monday through Thursday, and is less, about 10 percent, from Friday through Sunday, so our alternative proposal does as good or better a job of matching staffing to workload, because our proposal deliberately moves staffing to the busiest periods, while reducing it when workload is less.

This staffing analysis was completed in the spring of 2011, and the idea of reallocating staff to more closely follow workload was discussed with the Office of Pretrial Services director during the course of the audit, although not the specific plan developed in this section. In order to meet its budget reduction target in the FY 2011-12 County Budget, the Office of Pretrial Services proposed eliminated one full-time Pretrial Services Officer, and 0.6 FTE Pretrial Services Officer that was unfilled, and whose shifts were being filled using extra help. These reductions saved \$178,200 annually in salary and benefit costs. Accordingly, the savings from the analysis in this section has already been achieved by the department. However, we recommend that the department review our proposed staffing plan, to determine if the mix of 5/8 and 4/10 staff positions provides any opportunity for properly allocating the reduced Jail Division staff in relation to workload, as opposed to the current staff structure.

During the exit conference for this audit, the Director of Pretrial Services reported that in the wake of the position reductions required for the FY 2011-12 budget, he had shifted to a schedule of shifts that started at 6 a.m., 2 p.m. and 10 p.m. daily. Standard staffing is for one person on the 6 a.m.-2 p.m. shift, and two people on the other two shifts, seven days a week.

The Director further stated that he agreed that looking at a mixture of 5/8 and 4/10 shifts to provide better coverage with the reduced staffing was worth pursuing, but that he had been prevented from doing so by terms of the County's labor contract. Section 8.3

of the agreement with Service Employees International Union Local 521 states that the County's basic workday is eight-hour shifts, with either half-hour or one-hour lunch periods, and that alternative schedule proposals are subject to meet-and-confer negotiations. While a number of County departments have specific agreements accompanying the basic contract that permit 4/10 schedules, the Office of Pretrial Services does not. Section 8.14 of the contract also provides for the union to request, each November, an informal meeting with the Office of Labor Relations to discuss proposals for such alternate work schedules. According to the Director, he was advised that an alternative schedule could only be discussed during such a November session, or during regular negotiations for a new contract with Local 521. He requested that alternative staffing options be pursued as part of negotiations during 2011 on a new contract with Local 521. Ultimately, no change was made, presumably because the overwhelming focus of the contract negotiations was on addressing the County's need for employees to accept furloughs and other labor cost savings in order to address the County's budget shortfall.

The Office of Pretrial Services director stated he still believes that pursuing a mixture of 5/8 and 4/10 schedules to improve Jail Division staff coverage is worth pursuing, and noted that many PTS staff members indicated they supported such an option as a way to address staffing reductions, because of the potential advantages in matching staffing to workload, and because having three days off is attractive. We would also note that because the Office of Pretrial Services uses a seniority-based annual bidding system to assign staff to duties and shifts within the department, staff members to varying degrees would have options in determining whether to pursue 5/8 or 4/10 schedules, to the extent they are available.

Accordingly, we recommend that the Office of Pretrial Services request the Office of Labor Relations, in November 2012, to jointly pursue the feasibility of a mixture of shifts for the Jail Division, as described in this section.

CONCLUSION

The Office of Pretrial Services Jail Division operates on a 24-hour, seven-day-a-week basis, and has had relatively constant staffing, even though its workload varies by hour of the day and day of the week. Consequently, staffing is not optimized relative to workload, resulting in overstaffing during some periods, and understaffing in others.

RECOMMENDATIONS

The Office of Pretrial Services should:

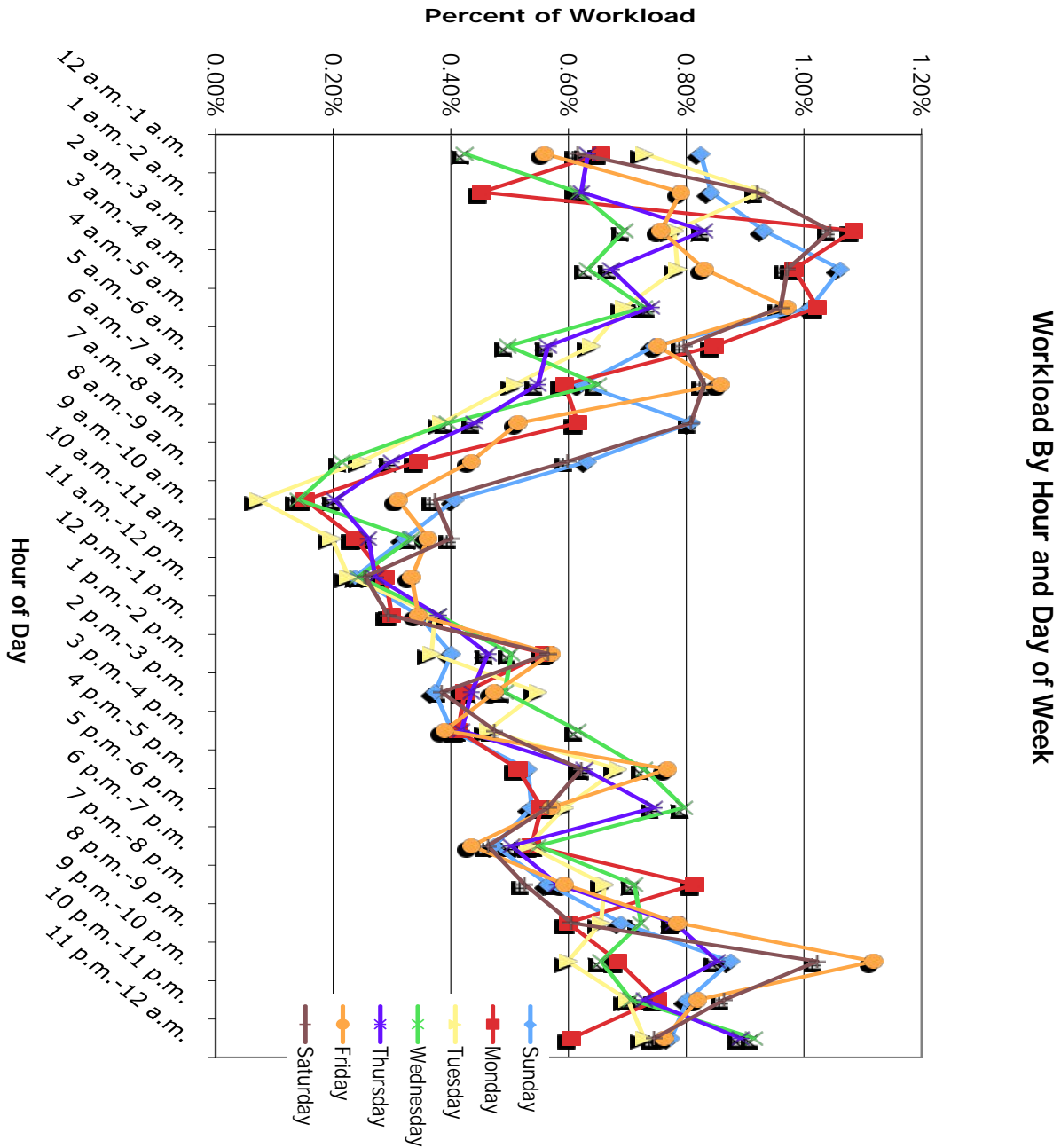
- 1.1 Reduce staffing by one 0.6 FTE Pretrial Services Officer position, now being filled by extra-help, and by one full-time Pretrial Services Officer position. This recommendation was implemented as part of the Fiscal Year 2011-12 County Budget. (Priority 1)
- 1.2 Review the staffing plan proposed in this section, to determine if it would better match staffing to workload, with reduced staff, than the current staffing plan. If so, request the Office of Labor Relations to initiate, during the November 2012 window, discussions with Service Employees International Union Local 521 regarding the feasibility of implementing a mixture of 4/10 and 5/8 schedules in the Office of Pretrial Services Jail Division, as recommended in this section. (Priority 1)

SAVINGS AND BENEFITS

By eliminating 0.6 FTE if extra-help, and one full-time Pretrial Services Officer position, the Office of Pretrial Services will save an estimated \$146,496 in salary and benefits. Subsequent to the completion of this analysis, the Office of Pretrial Services in fact eliminated 1.6 FTE positions as recommended in this section, in order to reach its FY 2011-12 budget targets, saving salary and benefits costs of \$178,200. The staffing plan

proposed in this section also better manages staffing to workload than previous staffing plans, while accommodating the staffing reductions.

Chart 1.3
Jail Division Workload by Hour of the Day
And Day of the Week in 2010



Section 2. Reporting Recommendations Using the New Risk Assessment Tool

Background

- In January 2011, the Office of Pretrial Services began using a new decision-making tool to assist Jail Division and Court Division Pretrial Services Officers in recommending which defendants should be released on their own recognizance. Management Audit Division staff compared 229 clients found eligible for release using the new tool, but not recommended for release by Jail Division staff, with 243 clients not recommended for release under the 2010 system. The comparison found that the basis for decisions against release differed in the two periods, with the 2011 decisions being aligned with standards integrated into the new tool.

Problem

- Although implementing the new tool had successfully modified the standards by which persons were not recommended for release on their own recognizance, documentation of the decision in the narrative explanations for recommending against release used varying language, and did not clearly state the basis for the recommendation in 40 percent of the cases reviewed.

Adverse Effect

- As a result, recommendations Pretrial Services makes to the Superior Court against releasing defendants did not clearly articulate the reasons why defendants should not be released, based on standards specified in State law.

Recommendation, Savings and Benefit

- The Office of Pretrial Services and the Superior Court should: (1) evaluate the sample data included in this report and its own data to verify that the new risk assessment tool is producing the release/no release results as intended, and (2) develop standard language for officers to use to explain recommendations against releasing defendants who would normally be eligible for release. Implementing these recommendations would ensure the accuracy of the new risk assessment tool, and make the bases for PTS recommendations clearer for judges that rely on this information in deciding whether to release defendants.

A New Decision-Making Tool

In January 2011, the Office of Pretrial Services began using a new decision-making tool to evaluate the risk factors presented by newly-arrested criminal defendants and assist in recommending to judges whether a defendant should be released from jail on their own recognizance, either with or without supervision.

The new risk-assessment tool, which was incorporated into PTS' existing Pretrial Online Production System, a computerized case-management system, is based on the Virginia Pretrial Risk Assessment Instrument, and was adapted for use in the County of Santa Clara with grant-funded assistance from a consultant familiar with the Virginia tool. As adapted for use in the County, PTS staff, principally staff in the Jail Division, use information on defendants' alleged crimes and charges, as provided in police affidavits, criminal history information developed from various databases, and information obtained from defendants in interviews, and verified from references, to evaluate each felony defendant booked into the Main Jail on the following dimensions:

- Whether the primary charge is a serious, violent or gang-related felony.
- Whether the defendant has any other pending criminal cases or charges.
- The defendant's criminal history, including two or more case convictions.
- Whether the defendant has a pattern of failing to appear in court, based on three or more such failures in the prior three years, prior convictions for failure to appear or escape, or a discernible pattern of failing to appear.
- Whether there is a history of violence, based on two or more convictions for crimes defined as violent by the California Penal Code, including physical violence or weapons use.
- Length of current residence, including having three or more addresses in the past year, and/or lacking family in the area, based on database information or interviews.
- Presence or absence of stable employment or current school attendance, or status as a primary caregiver.

- History of drug abuse, based on criminal history (drug offenses, releases to drug treatment, etc.) or interview information.
- Presence of a victim in the case, and whether the victim is fearful of the defendant's release.

Based on the information addressing these aspects of the defendant's background and current status, the decision-making tool generates a score of zero to nine points. Scores of less than two reflect a low risk level, and equate to recommending release of the defendant, without supervision. Scores of three to four reflect average risk, and equate to recommending release with supervision by the Office of Pretrial Services Supervision Division, as discussed in Section 6 of this report. Scores of five to six equate to above average risk, and equate to recommending supervised release or denial of release, in the judgment of the Jail Division Officer based on the circumstances of the defendant and the case. Scores of seven or more are high risk, and should be denied release. In addition, defendants may be ineligible for release, regardless of their score on the tool, if they are charged with homicide, if they have an order against release from another criminal justice agency, if they are already sentenced to probation or parole for another crime, if they have an arrest warrant for a different crime, or for other legal reasons.

Impact of the New Assessment Tool

In interviews, Jail Division staff, and judges who use their recommendations, said they were pleased with the new risk-assessment tool, and felt that it accurately captured factors that are related to defendant success while on release. They also believed that the tool was resulting in recommendations for release that might not have been made using the previous evaluation methods. Judges acknowledged that in some cases they have gone along with release recommendations, based on the new tool, that they might not have adopted previously, out of a desire to see whether defendants predicted to be successful on release, based on the tool, in fact avoid committing new offenses, missing court dates or violating terms of their release while out of custody.

Statistics generated by PTS for the first six months of 2011 showed that the number of defendants on own recognizance, or supervised own recognizance release for the first seven months of 2011, averaged 1069 defendants per month, compared with an average 987 defendants on release per month during the same period in 2010, an increase of 8.3 percent in the average number of defendants on release monthly. The increase was most pronounced in cases recommended for release without supervision, which increased by 12.4 percent, while the increase in cases recommended for supervised release was a more modest 3 percent.

To further explore changes in the release recommendation process that have occurred from implementing the new risk assessment, Management Audit Division staff requested and received information on 229 cases reviewed by the Jail Division in January and February 2011, that were eligible for release according to the risk assessment, but were not recommended for release by Jail Division staff. For comparison, we selected a random sample of 243 cases from the period from June 1 through November 1, 2010, that were also eligible for release, under the previous risk assessment analysis conducted by Jail Division staff, but were also not recommended for release. The 2010 sample represented about 25 percent of all cases not recommended for release during the five-month period. Cases in November and December 2010 were not examined, but some cases during those months, but not all, were analyzed with the new risk assessment tool, as part of the process of implementing it.

In each group of cases, the information we obtained for each case was the charges on which each defendant was booked, which Jail Division officer reviewed the case, and the recommendation summary from POPS, a narrative that indicated whether the defendant was being recommended for release, and the reasons why. As noted above, all the cases examined were ones where no release was recommended. Using this information, we analyzed the charges, reasons for not recommending release, and other aspects of each case. The goal of the analysis was to look at differences in the two sets of data, before and after the new risk assessment tool was implemented.

Key differences and similarities among the two sets of data are shown in the table on the next page. Because most cases have multiple charges, and because multiple factors reviewed may have been present in the same case, the percentage totals do not add to 100 percent.

Table 2.1

**Comparison of Cases Not Recommended for Release by Jail Division
June-October 2010, Versus January-February 2011**

	Jun.-Oct. 2010	Jan.-Feb. 2011
Cases Reviewed	243	229
Percent Burglary Charges	14.8%	11.4%
Other Property Crimes	26.3%	27.1%
Crimes Against Persons	18.1%	14.9%
Injury Reported	10.7%	5.7%
DUI Charge	16.9%	15.3%
Marijuana Possession	2.1%	2.2%
Other Drug Charges	32.1%	41.5%
Weapons Charge	13.6%	9.6%
Defendant Non-Cooperative	0.8%	17.5%
Information Not Verified	2.5%	35.4%
Residence/Transiency Issue	21.8%	36.2%
No work or school	21.0%	28.8%
Past FTA/FTA Threat	20.6%	23.6%
Danger-Criminal History	31.3%	34.5%
Risk to Re-offend	26.3%	14.4%
Drugs/Alcohol Related	52.3%	59.4%
Prior Failures on SORP		
Probation or Parole	14.4%	14.9%
Mental Health Issues	2.5%	4.4%
Victim Fear/No Victim Info.	11.6%	5.7%

Based on the information in the table, we would make the following observations:

- Following the finding of PTS that the number of releases overall increased once the new tool was implemented, Table 2.1 shows that the incidence of defendants with certain specific charges, or types of charges, being denied release recommendations went down, including burglary charges, crimes against persons, and incidents in which injuries were reported as part of the POPS narrative. The exception to this was drug charges, other than simple marijuana possession, which were much more frequently among cases not recommended for release under the new tool, versus the prior system. This makes some sense, given that one of the specific factors assessed in the new tool is a history of drug abuse, which would likely be found in a case where a defendant was accused of drug-related charges.
- The table also shows that factors specifically assessed by the new tool, including a defendant's residency status and the presence or absence of a stable employment or education situation, were more often specifically cited in recommending against release when using the new tool. Especially striking is the apparent importance, under the new tool, of being able to interview a defendant, and verify the interview information with a reference as part of the assessment using the tool. While concerns in this area were rarely cited in 2010 as a reason for recommending a defendant not be released, lack of defendant cooperation was cited 17.5 percent of the time in the first two months using the new tool, and inability to verify information was cited about 35 percent of the time. During the exit conference for this report, Pretrial Services staff noted that under the old system, a defendant's lack of cooperation, such as being unable to complete the interview, would make the defendant automatically ineligible for release. By contrast, they still could remain eligible under the new tool, assuming sufficient information was available overall to develop a risk score. However, in practice, Jail Division Officers are recommending against release in such situations.

- Also striking is that a defendant's risk to reoffend was cited, as a reason to recommend against release, only half as often with use of the new tool, as it was with the prior assessment methods.
- Finally, although victim concerns were specifically added as a factor to be assessed in the County's version of the risk assessment tool, because they were not included in the tool as implemented in Virginia, such factors were cited in the narrative for cases where release was not recommended only 5.7 percent of the time once the new tool was implemented, versus 11.5 percent of the time under the previous system.

The Office of Pretrial Services should take the information provided in the analysis in this section, and use it, along with other similar analysis to be conducted going forward, to meet with the primary judges responsible for pretrial release decisions, to make sure that the use of the new risk assessment tool is achieving the goal of identifying, based on statistically valid methods, criminal defendants that can safely be released on their own recognizance, as reflected by the results of additional analysis regarding the success and failure rates for defendants released based on the new assessment tool. Both the judges and PTS staff have acknowledged that the goal of the new tool is to release as many defendants from custody prior to trial as can be released, while meeting the legal goals of ensuring that defendants do not endanger public safety by committing new offenses, and appear in court for adjudication of their charges, as required by law.

During the exit conference for this audit, the Director of Pretrial Services reported that the Office had been working, with consultant assistance funded by the Pretrial Justice Institute, on a study validating that the new tool is producing the results intended, based on data generated by actual decisions made using the risk assessment tool. The Director also reported that starting in April 2011, during a period when fieldwork on this audit was on hold, the Supervising Pretrial Officer in charge of the Jail Division had begun a monthly process of reviewing all instances in which the new decision-making tool had indicated a defendant was eligible for release, but the reviewing officer nonetheless recommended against it. Staff found to have high rates of overriding the

tool were given additional training, and reminded that the goal of using the tool is to have a valid basis for releasing defendants when it is safe to do so, in terms of public safety and assuring that defendants will meet all release terms. The Director reported that the overall Jail Division override rate for November 2011, the most recent month available, had declined to 11.6 percent of all cases reviewed. However, the Director noted that one possible approach, if override rates remain unacceptably high, is to require approval by a supervisor for such overrides.

Reporting Recommendations Using the New Assessment Tool

In conducting the analysis provided by Table 2.1 above, Management Audit Staff in many cases had to infer the basis on which a recommendation not to release a defendant was made, based on information provided in the POPS narrative. This need occurred because Jail Division staff did not explicitly explain the legal basis on which they were recommending against release, and then tie information about the defendant obtained during the assessment process to that legal basis.

The legal bases for denying a release recommendation are established in Penal Code Section 1275, which states:

“In setting, reducing, or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. The public safety shall be the primary consideration.”

In considering the seriousness of the offense charged, the judge or magistrate shall include consideration of the alleged injury to the victim, and alleged threats to the victim or a witness to the crime charged, the alleged use of a firearm or other deadly weapon in the commission of the crime charged, and the alleged use or possession of controlled substances by the defendant.

While this law provides specific language Jail Division officers can use to characterize their recommendations to judges or magistrates against release, they sometimes, but do not always, do so. To illustrate this point, here are three examples from POPS narratives that clearly identify the basis for the non-release recommendation, with emphasis on the key phrasing added:

- “The defendant has lived at his address for seven months and in SCC for 12 years. He is employed with a construction company. **This is the defendant’s fourth DUI in 10 years, he is a risk to public safety.** A release is not recommended.”
- “Recommending against release at time of booking. Defendant has been living in California only two months and is also a transient. **Defendant is likely to flee and has a high risk of FTA.** Defendant is unemployed and has no family ties in the area. Defendant has prior theft convictions. **Defendant is likelihood to re-offend.**”
- “Recommend No Release; could not verify def’s (*defendant’s*) current or previous address with her aunt Yoland (ref) (*reference*). Per DMV record, def resided in Chowchilla approximately 1.5 years ago, however Ref states def has lived in Santa Clara County all her life; Ref also had custody of the children due to def’s arrest; def and children’s father share 50/50 custody, but the father could not be located; **due to the def’s residences being unverified, she is a flight risk and risk to FTA.** Not a good candidate at this time.”

By contrast to these examples, we reviewed other narratives where the exact legal basis for the recommendation not to release was not made fully clear. Here are some examples:

- “The defendant has an extensive criminal history including 3 prison commitments and violation of parole. The defendant’s information also could

not be verified. This case alleges the defendant to be in possession of 1.7 grams of a CNS (*Central Nervous System*) stimulant valued at \$170.00. A release is not recommended.”

- “The defendant has a stable address and has been a lifelong county resident. The defendant has two prior convictions for VC 23152(B) on 8/8/08 and 6/15/09. Also, the defendant is currently on Court Probation in both cases. Further, the BAC (blood alcohol level in this case was .243. In light of this information a release is not recommended at this time.”
- “Although defendant has stable ties to the community, def has a possible strike prior for residential burglary as a juvenile in 2007. Def also has other sustained petitions and was dismissed from juvenile probation in 12/2010. Per affidavit, def is being charged with residential burglary, possession of stolen property and possession of burglary tools. A release is not recommended.”

In the first example provided above, Management Audit staff inferred that the defendant would be a public safety danger, based on his criminal history, although that was not explicitly stated. In the second example, we inferred that the danger was based on either the history of DUIs, or the current incident, because of the blood alcohol level, although neither reason was explicitly stated. In the third example, we inferred that the danger was either based on the history, or on the current charge, because Jail Division staff noted that Santa Clara County judges are generally reluctant to release defendants charged with residential burglary, because of a concern they will reoffend while out of jail. Again, the specific legal basis for not recommending release was not stated.

Overall, we identified 92 defendants, or 40.2 percent of the 229 cases we reviewed, where the description of the basis for the no-release recommendation was not clear.

To address this concern, we recommend that the Jail Division develop, as part of its procedures, specific phrasing to be used in narrative recommendations, borrowing the

language of Penal Section 1275, and applying specific facts from each defendant accordingly. Examples of such language include the following:

- “The defendant is not being recommended for release because he is a danger to public safety, based on his criminal history. Specifically, the defendant”
- The defendant is not being recommended for release, because he is a danger to public safety, based on his current charges and the circumstances of his case. Specifically, the defendant”
- “The defendant is not being recommended for release, because his risk for failing to appear is excessive, based on”
- “The defendant is not being recommended for release, because his risk for reoffending if released is excessive, based on”

By using these key phrases, and other standard language the Jail Division should develop, the legal basis for its recommendations, and how that basis relies on the facts of each defendant’s case, will be clearer. That will be important in the future, because eventually the current judge and magistrate who primarily review the Division’s reports, and have been doing so for many years, will be replaced by others who are new to the task. Right now, this step will be helpful when judges other than those principally assigned to release-related functions fill in for this role.

CONCLUSION

A comparison of 229 defendants not recommended for pretrial release in 2011, following adoption of a new risk assessment tool, and a sample of 243 recommendations in 2010, showed that the basis for such recommendations changed during the two periods, in ways that reflected the standards established by the new risk assessment tool. However, this review also showed that narrative descriptions of the legal basis for non-release recommendations, and how that basis ties back to each

defendant's risk factors, were not clearly stated in 40.2 percent of the 2011 cases reviewed.

RECOMMENDATIONS

The Office of Pretrial Services should:

- 2.1 Assess, based on the analysis in this section, and any additional analysis it conducts, in concert with relevant County judges, whether the release recommendations being provided using the new risk assessment tool are achieving the goal of releasing, based on being identified by a scientifically valid risk assessment, defendants that can be released, without compromising public safety and with reasonable assurance that they will comply with release terms, as required under applicable provisions of State law. (Priority 1)
- 2.2 Develop, as part of the Jail Division procedures manual, specific language to be used in the narrative portion of recommendations regarding pretrial release, which states the specific legal basis for the recommendation, and how individual circumstances of a defendant's case support that legal basis. (Priority 2)

SAVINGS AND BENEFITS

By implementing the recommendations of this section, the Office of Pretrial Services and the Superior Court would ensure that the new risk assessment tool is working as intended, and would make the basis for Office of Pretrial Services recommendations clearer for judges that rely on this information in deciding whether to release defendants.

Section 3. Increasing the Effectiveness of the PTS Risk Assessment Tool

Background

- Office of Pretrial Services Court Division Officers prepare about 12,000 court reports annually using a newly implemented risk assessment tool. These reports include custody/release recommendations to judges. However, in more than 800 cases annually, defendants post bail, plead no contest, or are not charged, eliminating the need for a report.

Problems

- In a two-month sample period, Court Officer reports recommended against release for 323 of 418 persons (77 percent) deemed low risk by the risk assessment tool, and for 92 percent of persons deemed average risk. In addition, because PTS does not receive timely notice in the 800 instances where no report is needed, approximately 0.5 FTE of Court Officer time is wasted on these reports. In other cases, procedural inefficiencies delay reports and custody/release decisions.

Adverse Effect

- As a result, recommendations in Pretrial Services Court Division reports are often inconsistent with the risk ratings assigned by the risk assessment tool, and may cause arrestees to potentially be denied release, and increasing jail population and costs. Similarly, procedural delays in issuing reports also result in additional jail days and costs.

Recommendation, Savings and Benefit

- The Office of Pretrial Services should: (1) continue to evaluate the risk assessment tool ratings and modify the tool as necessary to improve the correlation between its ratings and Court Officers' recommendations; (2) have Court Officers specify in their reports why release is not being recommended for defendants with a low or average risk according to the tool; and (3) improve the timeliness of reports on self-surrender defendants by following the same procedures used for most defendants booked into the Main Jail. Implementing these recommendations would increase the percentage of persons released from custody, and reduce the jail population and related costs.

PTS Reports Used to Make Pretrial Custody/Release Decisions

Preparation of the Court Arraignment Reports (CARs) is a primary responsibility for all Pretrial Services (PTS) Court Division Officers. Each morning, PTS Court Officers review Jail Arraignment Reports (JARs) prepared by the Jail Division Officers, to identify any information about the arrestee that might not have been available when the jail report was prepared, but is now available. By updating and adding information to the jail reports, such as changes in the crimes charged, JARs become CARs or Misdemeanor Arraignment Reports (MARs) for misdemeanor cases. In addition, Court Officers determine whether new cases without prior reports require them, in which case the Court Officer prepares a Court Arraignment Report from scratch, gathering the same criminal records and other information as described in Sections 1 and 2 for Jail Arraignment Reports.

Most Court Division reports are prepared for the two hearings constituting arraignment, in which defendants hear their charges, are assigned or report having an attorney, and enter a plea to the charges. However, Court Officers also respond to requests from judges for Formal and Limited Formal reports, after the arraignment hearings, when there has been a change in status for a defendant that is still in custody. A Limited Formal Report requests information on a specific issue, such as a defendant's proof of employment, reported to the Court verbally or by a brief memo, while Formal Reports are comprehensive. The PTS Court Division Supervising Officer assigns Formal and Limited Formal Reports on a rotating basis to Court Division officers.

In addition, a designated Court Officer produces Self-Surrender Reports for defendants who have received a warrant to present themselves for arrest. As shown in Table X.1, the number of self-surrender reports has steadily increased by 69 reports per year, or 157 percent, from 44 in Calendar Year 2006 to 113 in Calendar Year 2010. According to Pretrial Services, the increase in Self-Surrender Reports has occurred because the Office of Pretrial Services has made ongoing efforts to develop the County's Self-Surrender Program through community outreach.

As shown in Table 3.1 on the next page, the majority of Court Division reports are Arraignment Reports, despite a steady drop of 3,371, or 35 percent, in the annual number of Arraignment Reports over the past five years. According to Pretrial Services, the decrease is due at least in part to efforts to increase releases through recommendations made by the Pretrial Services Jail Division and approved by the Court, as discussed in Sections 1 and 2 of this report.

Table 3.1

Reports Generated by the Court Division: CY 2006-2010

<u>Report Type</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Average</u>	<u>% Change: 2006-2010</u>
Court Arraignment	9,572	8,916	7,710	6,480	6,201	7,778	(35.22%)
Formal Report	292	199	176	139	160	193	(45.21%)
Limited Formal	47	101	65	92	104	82	121.28%
Miscellaneous*	841	785	720	727	546	724	(35.08%)
Misdemeanor	n/a	5,115	5,870	5,902	5,344	5,558	(8.66%)*
Self Surrender	<u>44</u>	<u>78</u>	<u>50</u>	<u>78</u>	<u>113</u>	<u>73</u>	156.82%
Total	10,796	15,194	14,591	13,418	12,468	14,408	

*Miscellaneous Reports are completed in cases where defendants are assigned to Supervised Own Recognizance release by the court, without a recommendation by Pretrial Services staff regarding that decision, but Pretrial Services staff enters the defendant's information into the Pretrial Online Production System when the defendant becomes a client.

**Misdemeanor percentage change is from 2007-2010, because no 2006 data were available.

Dropped Cases Causes Inefficient Use of Court Officer Time

Most Court Officers spend the majority of their morning preparing for afternoon court sessions. This primarily involves reviewing the court calendar for the court that they have been assigned to cover, updating existing Jail Division reports and creating new Court Arraignment Reports. During this process, attorneys in the Office of the District Attorney often contact Court Officers, because a prosecutor adds a new case that requires a report for an arraignment hearing, changes the charges from a felony to a misdemeanor or vice versa, or decides not to file a charge. If the DA's Office decides to reduce a charge from felony to misdemeanor, the Court Officer still prepares a report. However, if no charges are filed, the Court Officer will stop working on updating the report that was prepared and forwarded by the Jail Division.

Table 3.2 below covers the months of February and March 2011, and shows the number of reports that were disposed of, because: 1) the defendant pleaded guilty and did not return to court for sentencing; 2) prosecutors did not file charges; 3) the case was removed from the calendar (off calendar): or, 4) the defendant submitted bail before the court date was set (out of custody/ bailed out). During the exit conference for this report, Pretrial Services reported that the cases that are removed from the calendar are

often removed at the request of defense attorneys, who choose not to have the issue of an OR release reviewed by the Court, based on reviewing the Pretrial Services Officer's recommendation and analysis.

Table 3.2

Unfinished Court Unit Reports: January and February 2011

<u>Reason for Closing Report Before Arraignment</u>	<u>January 2011</u>	<u>February 2011</u>
Guilty Plea	34	26
Charges Not Filed	8	15
Off Calendar	8	1
Out of Custody/ Bailed Out	<u>24</u>	<u>28</u>
Total	74	70

This process is inefficient, given that a Court Officer may spend anywhere from five minutes to one hour preparing a report that is not used. There were 74 reports dropped in January 2011, and 70 reports were dropped in February 2011, representing an average of up to 72 hours of time per month, or about 0.5 FTE, spent on unnecessary work. PTS should work with the District Attorney and the Court to establish a policy whereby Court Officers are contacted as soon as possible with changes in status that eliminate the need for a court report, to ensure Court Officers spend as little time as possible preparing unnecessary reports. The Director of Pretrial Services reports that he has discussed this issue with the District Attorney, and is pursuing the recommended policy, including a system whereby Court Officers staff will be notified electronically when defendants' status changes so that a report is no longer needed. He noted, and we concur, that this problem cannot be entirely eliminated, because it sometimes results from prosecutors' having to get follow-up reports from police regarding alleged criminal incidents, and needing to make decisions on short notice regarding whether or not to file formal charges.

Risk Assessment Tool

In January 2011, the Office of Pretrial Services added a risk assessment instrument for use in making release recommendations, which is now part of the report-generating Pretrial Online Production System (POPS). The risk assessment tool uses information entered by PTS Officers into the POPS database, and answers to a series of questions

about the defendant and the charges, and generates a degree of risk associated with releasing a defendant (Low, Average, Above Average, and High). The new instrument is validated by research identifying the factors most closely associated with releases that are successful in terms of a defendant making all court appearances, and not committing other offenses while on release. The new instrument emphasizes use of criminal history information, which Court Officers access through multiple databases. From a convenience standpoint, one of the primary advantages of this tool lies in the fact that factors contributing to a release decision are all on a single page.

Based on interviews with Court Officers, attorneys, and judges, the opinion appears to be that the new risk assessment broadens the perspective of release considerations, by putting more emphasis on a defendant's history of making court appearances, or otherwise complying with court requirements, and less emphasis on items such as housing status or having family members in the community. However, a review of PTS reports issued since the Risk Assessment was released in January 2011 shows that recommendations for release do not always correspond with the level of risk calculated by the instrument. For example, in one instance the Risk Assessment calculated a low risk level for a woman who had a warrant out for her arrest for a crime committed in 2005, after which time she moved out of the United States. The defendant was arrested in the airport when she returned in 2010. Because of the risk the defendant would again flee if not kept in custody, the Officer did not recommend release.

Table 3.3 demonstrates that Court Officers frequently make recommendations that deviate from Risk Assessment output. Between January 1 and March 8 2011, Officers made recommendations against release for 323, or 77 percent of the 418 cases that the Assessment deemed Low Risk. Court Officers made recommendations against release for 786, or 92 percent, of the 850 cases that the Assessment deemed Average Risk. In most cases data provided by PTS did not offer a reason why release was not recommended. However, for those 213 cases with Low and Average risk where a reason was identified, "holds" that represent a legal restriction on release were the most commonly cited factor in the recommendation to keep a defendant in custody. Excepting cases with holds or other legal reasons for not recommending release, the overall rate of recommendations against release, in defendants identified by the tool as low or average risk, is still high, 62.7 percent for low risk defendants, and 75.7 percent of average risk defendants.

Table 3.3

Risk Level Output and Court Unit Recommendations: Jan 1 through Mar 28, 2011

<u>Risk Level Output from Risk Assessment</u>	<u>Court Officer Recommendation</u>	<u>Count</u>
Low	No Release	323
Low	OR	41
Low	SORP	54
Average	No Release	786
Average	OR	10
Average	SORP	54
Above Average	No Release	1,444
Above Average	OR	5
Above Average	SORP	15
High	No Release	226
	Total	2,732

Source: Santa Clara County Pretrial Services

Not all judges currently review the Risk Assessment outcomes, and some do not make release decisions based on the Risk Assessment output, because they find the detailed data in the PTS report to be more useful in providing a complete picture.

Given that the risk assessment tool is a new procedure for the Office of Pretrial Services, it is very important that information be provided on situations where a release is not recommended, even though the risk level indicates release would be viable. Therefore, we recommend that PTS Court Division officers be directed, by a written procedure, to provide a narrative description of why release is not being recommended for Low or Average risk defendants, when no other legal restrictions exist. Jail Division reports have this type of narrative, which is discussed further in Section 2 of this report. PTS should use this information as part of the evaluation and training process for Court Division staff in using the new tool, and for communicating the purpose of the tool to judges, prosecutors and defense attorneys. Although there is a screen in the POPS database that displays information on holds, which are legal reasons a defendant may need to stay in custody, such as the existence of a warrant for arrest from another jurisdiction, the arraignment reports should have a section identifying the type of hold and the entity who placed the hold (e.g. parole, probation, etc.). Further, the results achieved from use of the risk assessment tool should be monitored, and the design of

the tool modified as necessary to achieve a higher correlation between the risk assessment ratings and PTS Court Officers' recommendations.

During the exit conference for this audit, the Director of Pretrial Services agreed that the rate of defendants for whom Court Division officers were not recommending release, despite the evaluation of the assessment tool, was too high. He reported that in November and December, two experienced Court Division officers conducted reviews of all such overrides, to try and determine why the risk assessment recommendation from the tool was not followed, and in January, the Supervising Pretrial Officer overseeing the Court Division reviewed all overrides in cases determined by the tool to be low risk. Based on this review, additional training in use of the tool is being provided to Court Division staff as needed. The director noted that in November, the most recent month available, the override rate for the Court Division as a whole of release recommendations that should have been made, based on the assessment tool, was about 50 percent, an improvement over the results found earlier by the Management Audit Division, but still very high.

Misdemeanor Reporting Process Inefficiencies and Controls

Judges and attorneys in the misdemeanor courts rely on the following information contained in the PTS Misdemeanor Arraignment Reports: (1) description of alleged offense, (2) criminal history, (3) pending matters/holds, (4) future court appearance requirements. In the case of misdemeanors, the judge not only uses the information to make release decisions about serious misdemeanor cases often related to drug use and domestic violence, but also to make sentencing decisions. In particular, the affidavit completed by the arresting agency contained in the PTS report provides useful context.

Court Officers are required to complete the majority of misdemeanor reports, because Jail Division Officers enter only the basic identification, charges and criminal record information. Court Officers also have the additional pressure to produce comprehensive and thorough information, because the Court Officer covering the misdemeanor court is not present in court to answer questions that may arise. The Court Unit staff must prepare misdemeanor reports for the afternoon session by 12 p.m., so time to complete the reports is limited. Assigning Jail Officers to prepare the misdemeanor cases in the same manner as they do with felony cases, including locating victim and witness information from arresting agency affidavits, or from limited arrestee interviews, when necessary, would improve the process in two ways. First, the Court Officer would not have to rush to gather the necessary information in a matter of

three hours. Second, transferring some of the misdemeanor report generation process to the Jail Officers would allow the Court Officer handling misdemeanor cases more time to conduct more in-depth interviews, particularly for those cases involving domestic violence. One difference between misdemeanor and felony report preparation is that misdemeanor report preparation does not require verification of community ties information with references, or interviews of victims, because Court Officers have limited time to complete the report. However, depending on the context of the case, either Jail Division or Court Division Officers could and should conduct interviews for misdemeanor cases where warranted.

Attorneys and Court Officers reported that the Risk Assessment tool does not work well for misdemeanor cases because of the lack of an interview.¹ In order to resolve this issue without changing the current risk assessment tool design, Court Officers could interview defendants in misdemeanor cases only when not having information on stability/community ties and stable employment, which are the two questions that would come from an interview, and would affect the risk level as determined by the assessment tool. A Jail Division Officer could interview a misdemeanor arrestee that is in custody on a misdemeanor spousal battery charge, because the interview would presumably generate victim information and the victim could then be contacted by the Jail Division, and the victim information used in the subsequent Misdemeanor Assessment Report.

To understand the amount of extra work associated with interviewing misdemeanor defendants whose interview might make them eligible for release, the Management Audit staff reviewed reports completed in January and February 2011 associated with misdemeanor domestic violence cases where defendants were not released, and the Risk Assessment rating was Low, Average, or was not completed. Domestic violence misdemeanor cases represent the most common case type that benefits from an interview in ascertaining safety risks associated with a defendant's release. Of 38 cases, nine cases might have benefited from a Court Officer interview with the victim to understand more details about the case, suggesting that revising the interview policy

¹The tool includes nine questions, each of which relates to a certain aspect of the case or the defendant, and two of which rely on information on community ties that can only be obtained through an interview. For two of the nine questions, the Risk Assessment defaults to an answer creating a factor that lowers the defendant's possibility of release, even though the answer is based on a lack of information, rather than an informed answer to the question. A score under 2 signifies low risk, 3-4 is average, 5-6 above average, 7-9 is high. Scores 5-6 are denied or put on SOR. Scores of 7-9 are usually denied.

for selected misdemeanor case types would not add significant workload to PTS staff if one Officer were required to conduct an additional five to 10 interviews per month.

Court Division staff advised that PTS is working to establish a system where victim information is collected from the defendant while in jail, and entered into POPS by the Jail Division Officers, in order to help expedite the report completion process. PTS management should expedite this process in order to eliminate research of misdemeanor information from the Court Officers' workload.

Inefficiencies Issuing Formal Reports Lead to Extended In-Custody Stays

In response to requests from judges, Formal and Limited Formal Reports are assigned to Court Officers on a rotation basis, and are completed post-arraignment, typically due to a change in defendant status or the availability of new information, often from the police report, or a defendant interview. For example, prior to arraignment a defendant may not want to provide an interview, but the defendant may later change his mind. When the Office of Pretrial Services receives the request for an additional report, a Court Officer visits the jail, conducts an interview, and completes the report, which is similar to a Court Arraignment Report, and includes a release recommendation. The Court Division supervisor reviews the report, which is then submitted to the judge. The Court Officer who prepared the report will check on the release status in the Pretrial Online Production System to see what happened in court.

When PTS receives a request for a Formal or Limited Formal Report, PTS management may request judges to use an existing Jail Arraignment Report, supplemented by information from Court Division staff, rather than requesting a separate written report, because of the extra time it takes. However, as shown in Table 3.1 above, the Court Division still issues an average of 193 Formal Reports per year. Formal Reports take between four and five hours to complete, in large part because the information is not available from documents, potentially requiring Court Officers to go to the Main Jail to interview defendants. The process would be more efficient if Jail Division Officers completed these reports for defendants already housed at the Main Jail.

The timing on the Formal Report turnaround process could also be improved. Currently Court Officers are permitted to spend up to one week to complete the Formal Report. Given that Formal Reports typically take four to six hours to complete, and on some occasions the information needed for a judge to make a custody/release decision is as simple as an updated employment or treatment status, no valid reason exists for the

seven-day turnaround, in most cases. PTS staff advised that the report does not take seven days to complete and is typically completed at least one or two days before the court date, but the court will not review it until the scheduled court appearance, so the report is submitted the same day when the officer goes to court. PTS does not collect data on the report turnaround. Formal Report data is limited to the completion date and the court date when the report is heard. During the exit conference for this audit, the Director of Pretrial Services said staff will be instructed not to ask for more than three days from a judge to complete a formal report, regardless of when a court hearing that would include a review of the report is scheduled to occur.

Not only does the weeklong turnaround result in high costs to the County associated with longer jail stays, but defendants may risk losing a job while they remain in custody pending release of a Formal Report. PTS should work with the District Attorney's Office, the Office of the Public Defender and courts to expedite the amount of time required to schedule related court dates and in turn reduce the length of time that defendants spend in custody, or to have judges review reports when received and authorize release at that time, without a formal hearing.

CONCLUSIONS

The Office of Pretrial Services Court Division Officers prepare reports for judges' use in deciding whether to release defendants on their own recognizance. Currently officers spend up to 72 hours per month on reports that are not used because the case is settled prior to arraignment, thereby wasting valuable staff time that Court Officers could spend on other assigned work. In addition, a new risk assessment instrument was implemented to assist in the preparation of these reports; however, release recommendations are not consistently corresponding with the risk level identified by the new instrument. Also, preparation of Misdemeanor Arraignment Reports is not as efficient as it could be, because Court Division staff may have to gather information through defendant interviews that could more easily be obtained by Jail Division staff.

RECOMMENDATIONS

It is recommended that the Office of Pretrial Services:

- 3.1 Work with the District Attorney to establish a policy of contacting Court Officers with changes in status that eliminate the need for a CAR as soon as possible, to minimize the time spent preparing reports that are not used. (Priority 2)

- 3.2 Develop procedures requiring narrative descriptions by Court Officers of the basis on which release is not being recommended, when the defendant's risk level is low or average as determined by the new risk assessment tool and there are no legal restrictions on releasing the defendant. (Priority 1)
- 3.3 Communicate with judges and attorneys about the new risk assessment tool to ensure that they understand its components and purpose, in order to increase the tool's effectiveness in identifying appropriate release candidates; and evaluate the risk assessment tool ratings and modify the tool as necessary to improve the correlation between its ratings and Court Officers' recommendations. (Priority 1)
- 3.4 Initiate a new process whereby Jail Officers prepare reports for misdemeanor domestic violence cases in the same manner as with felony cases, including locating victim and witness information from arresting agency affidavits, where available, or from brief interviews, when necessary. (Priority 2)
- 3.5 Initiate a new process whereby Jail and Court Officers interview defendants of selected types of misdemeanor cases, particularly in situations such as domestic violence cases where not having information on community ties and stable employment could change the release recommendation. (Priority 2)
- 3.6 Initiate a new process whereby Jail Officers complete the Formal and Limited Formal reports for in-custody defendants housed in the Main Jail. (Priority 3)
- 3.7 Work with the District Attorney's Office and Courts to reduce the turnaround time for report production and scheduling related court dates. (Priority 3)

SAVINGS, BENEFITS AND COSTS

Implementation of recommendations would increase efficiencies within the Office of Pretrial Services, given that Court Division staff would spend less time producing unnecessary reports and conducting job duties better suited for other Divisions. In addition, a reduction in the amount of time taken to submit formal reports, as well as initiating a new process whereby jail and court officers interview defendants of selected misdemeanor case types would result in an undetermined reduction in costs to the County associated with shorter jail stays and a reduction in administrative duties.

Section 4. Supervision and Substance Abuse Treatment

Background

- About 1,800 persons annually are released from jail by the Court on their own recognizance, under supervision of the Office of Pretrial Services Supervision Division. Many PTS clients are required to receive substance-abuse counseling and/or treatment and almost always get it via Gateway, a telephone screening and referral center operated by the Department of Alcohol and Drug Services (DADS).

Problem

- However, reduced County funding for counseling and treatment over the last several years has resulted in a shortage of substance-abuse services and excessive delays for clients attempting to sign-up for services, which contributes to PTS client failures and return to custody.

Adverse Effect

- Based on a random sample of 43 of the 173 PTS clients who entered and failed supervised OR between October 2010 and March 2011, 27 clients (63 percent) had been required to get substance-abuse counseling/services, and of these, 16 (37 percent) waited an average of 35 days to get a counseling appointment. The failure of these clients on supervised OR resulted in 575 additional days in custody, and additional jail cost of \$112,085.

Recommendation, Savings and Benefit

- By (1) requiring PTS clients to attend some type of social support activity while waiting for counseling, as permitted by existing law; (2) converting Vietnamese and Spanish language counseling classes to also accommodate English speaking clients when unassigned openings are available, and; (3) making counseling appointments five days per week rather than once a week, or taking other steps to address the waiting times at the Gateway Center, available treatment resources would be maximized, fewer PTS clients would fail OR and the number of custody days and related costs would be reduced. If all supervised OR clients could get prompt treatment, and 90 percent avoided pre-trial incarceration as a result, we estimate 1,404 to 4,774 days in jail would be saved, for a potential cost savings of \$286,121 to \$972,893.

Criminal defendants released to the Supervised Own Recognizance Program (SORP) are supervised by Office of Pretrial Services Officers, primarily in the Supervision Division that oversees the more difficult defendants, or those charged with more serious crimes. Supervision Officers oversee clients to make sure they meet terms of release, including contacting the Supervision Officer weekly, attending all court dates as ordered by the court, not committing new crimes, and, for some clients, participating in weekly substance-abuse testing and receiving substance-abuse treatment and counseling, for clients whose criminal charges are drug- or alcohol related.

In interviews, Supervision Unit Officers all said one of the biggest difficulties clients have is obtaining timely substance-abuse treatment and counseling. PTS does not provide such services itself, but instead refers clients, who generally don't have health insurance or their own money to pay for the services, to the County's Department of Alcohol and Drug Services (DADS). Clients call the Gateway Assessment Center, a six-position (one position now vacant) call-in center where Health Services Representatives screen callers using a series of questions to determine what type of treatment (outpatient counseling, residential treatment, immediate detoxification in a facility) the client needs, then refer them to County-operated programs, or providers with whom DADS contracts to provide these services. Gateway operates 8 a.m. to 5 p.m. on County work days. For the months of August through October 2011, Gateway averaged about 3,700 calls a month. Referrals come not just from PTS clients, but from Probation Department clients, clients referred directly by the courts, and County residents seeking treatment on their own. Once a client gets a referral, they attend an orientation session with the provider, and then move into treatment with a counselor. According to DADS Division Director for Adult Treatment, residential drug treatment usually lasts about 45 days, and is followed up with additional outpatient treatment, while outpatient counseling usually lasts 90 days, and can be accompanied by a separate referral, by the treatment provider to a Transitional Housing Unit, where the client is able to live in an environment where drugs or alcohol are not present.

However, when a client calls Gateway, usually there is a delay before a referral to treatment is made. For detox care, clients are advised to call the detox facility directly,

and are advised to call back every two hours until a space becomes available, because detox beds turn over frequently, and represent an immediate acute care need for clients. For residential care, clients are typically placed on a waiting list, and contacted by the DADS Quality Improvement Unit when a treatment bed is available. For outpatient care, County-run facilities and the providers contracting with the County to provide services report each Wednesday to the Quality Improvement Unit, how many treatment slots they will have available for a period two weeks away. Although slots may be available at other times, it is on the Wednesday report that facilities must make a firm commitment to the service slots available for the succeeding period. DADS staff reports that a client who has begun treatment, but then stops attending sessions, typically remains assigned to a treatment slot for up to 30 days, before that slot can be made available to a new patient, which creates some uncertainty about when slots may be available.

The slots committed on Wednesday to be available in two weeks, are then issued by Gateway on a first-come, first-served basis on Thursdays, so that callers on November 17, 2011 seeking a treatment slot were vying for slots that were available during the week of November 28-December 2

We confirmed the difficulties this system creates by obtaining from the Office of Pretrial Services a list of all clients on supervised own recognizance release, whose release was revoked between October 1, 2010 and February 28, 2011. We narrowed the list to clients that at least met initially with a Supervision Officer to receive the requirements of their release, which totaled 173 clients for the period reviewed. Out of the 173 clients, we selected a random sample of 43, and reviewed in detail the log in the Pretrial Online Production System kept by the Pretrial Services Officer overseeing each case. These logs include information on the weekly contacts by the client with the officer, drug test results, and other communications with the client, including information on the client's attempts to get substance-abuse treatment through Gateway or another source.

Of the 43 clients, 27, or 62.8 percent, were required to get counseling as a condition of release. These included three clients that were already in substance-abuse treatment at the time of release, and failed while on it, two that sought treatment, and were still on a

residential program waiting list, for 22 and 56 days, respectively, at the time release was revoked, one out-of-County client that sought treatment outside the Gateway system, and five clients that made no apparent effort to seek treatment through Gateway as required, although one made one call, was told to call back, and did not.. The remaining 16 clients made repeated attempts and finally did get a referral from Gateway. However, their initial appointment with a drug-treatment provider on average occurred 35 days after they first contacted Gateway for services.

To determine the impact on these 16 clients of failing supervised own recognizance, we requested information from the Criminal Justice Information Control system to determine how long these clients were in custody after their release was revoked. The additional period of incarceration ranged from zero days to 244 days, with an average additional stay of 34 days, and a median stay of 10 days. Presumably, clients who had short stays following revocation of own-recognizance release probably were released on financial bond. In total, the 16 clients in the sample stayed a total of 550 additional days in jail. Based on a Sheriff's Department estimate that Main Jail costs amount to \$203.79 per inmate per day, this represented an additional cost to the County of \$112,085.

Extending the sample to the broader population, we looked at 43 revoked cases, 16 of which experienced an average delay of 35 days in getting counseling. The 16 cases, out of a total of 173 revocations over a five-month period, translates to about 156 clients annually who are likely to fail supervised own recognizance release due to delays in getting drug counseling. Based on the jail experience of the 16 cases reviewed, the annual impact of 156 clients on the jail ranges from 1,556 additional jail days, if the median is used, to 5,349 additional jail days, if the average of our sample is used. Additional jail costs, at \$203.79 per inmate, per day, therefore range from \$317,100 to \$1,090,032 that could potentially be saved by successful completion of pretrial release under supervision.

However, during the exit conference for this audit, both the Director of Pretrial Services and the Director of the Department of Alcohol and Drug Services advised that it was not practicable to assume that all clients who participate in drug treatment will be successful, even for the short term needed for PTS clients to successfully complete their

pre-trial release period. A summary of research in the field, completed by DADS staff in 2010, found that, in a comparison study of abusers' drug use one year before admission to treatment and one year following discharge from treatment, about 35 percent of abusers were no longer using their primary drug. Furthermore, a 2003 study, specifically of County of Santa Clara DADS clients, which used Criminal Justice Information Control system data as a source, found that only 5 percent of clients had a drug-related arrest during treatment. Based on this research information, we believe it is reasonable to assume that 90 percent of PTS clients, if given prompt access to treatment, would be able to remain drug free, as required by the conditions of their release, during the period of supervision, which averaged about 110 days in 2011. Using that criterion, of the 156 clients overall likely to fail supervised release without any drug treatment, 140 would presumably complete pre-trial release successfully if timely treatment was provided. Based on the average and median lengths of stay estimated previously, and a Main Jail cost of \$203.70 per inmate, per day, the savings that could be generated ranges from 1,404 to 4,774 jail days saved, and a financial savings of \$286,121 to \$972,893.

To further verify the difficulties clients have in getting treatment through Gateway, we observed the call center on November 17, 2011. On this date, Gateway staff was assigning treatment slots starting the week of November 28-December 2, and had the following resources available:

- 43 English-language treatment slots, including 10 in South County and the remainder in San Jose. Three of the San Jose slots were filled before being made available for telephone referrals, probably due to residential clients progressing to outpatient care.
- 11 Spanish-speaking treatment slots, including 2 in South County and the rest in San Jose.
- 3 Vietnamese-speaking treatment slots, all in San Jose.
- 10 slots reserved for State parolees now being supervised by the Probation Department under the realignment program approved by the State for its FY 2011-12 budget. Three of these slots had also been filled prior to being made available for telephone referrals.

In total, therefore, 67 treatment slots were available. By 8:47 a.m., all the English-language slots in San Jose were filled, leaving Gateway staff able only to tell subsequent callers that they would need to call again the following week.

Furthermore, because clients are told that all available slots will be given out on Thursday at 8 a.m., on a first-come, first served basis, an enormous queue of callers results. When the phone lines first opened on November 17, more than 80 callers were on hold. Analysis conducted by the Gateway Center manager starting from July 2011 showed that it is common for 60 to 80 callers to be waiting on hold by 8:30 a.m. each Thursday. By shortly after 9 a.m., Gateway staff were advising clients that had been on hold for more than an hour that they would need to call back the following week. The statistics also showed that during the 8 a.m. to 9 a.m. period, about 25 percent of callers hang up before their call ever gets answered. Furthermore, statistics from the Gateway Center phone system show that callers at 9 a.m. in October 2011 waited on hold as long as one hour, 25 minutes, and the average wait at 8:30 a.m. was 55 minutes.

These delays reflect a shortage of treatment services, which have been cutback significantly in recent years as a result of the County's budget problems. The following table shows the reduction, as reported by DADS Division Director for Adult Treatment, of resources from FY 2007-08 to the present time, as well as DADS latest estimate of what resources would be needed to meet the current demand.

Table 4.1

**Reduction in County-Funded Substance Abuse Treatment
From FY 2007-08 to FY 2011-12**

Fiscal Year	Detox Beds	Residential Beds	Outpatient Slots	THU Beds	Total Resources
FY 2007-08	16	357	2,690	489	3,552
FY 2011-12	16	197	1,463	233	1,909
Reduction	0	(160)	(1,227)	(256)	1,680
Percent Reduction	0	44.8%	45.6%	52.3%	47.3%
Current Demand	27	287	2,865	329	3,508

As the table shows, the County’s treatment capacity has fallen by slightly less than one-half in the past four fiscal years, and is less than half the current demand, as calculated by DADS staff based on treatment requests through the Gateway Center and other sources. To put this decline in another way, DADS estimates that each outpatient slot and Transitional Housing Unit bed has the capacity to serve about four clients per year, while each residential treatment bed can serve about eight clients per year, based on the typical length of stay. Consequently, the reduction in resources amounts to about 6,800 County residents per year that need services but cannot get them. Of the reduction in resources, according to DADS, about 1,232 beds or treatment slots, or 73.3 percent, were funded by grants for specific purposes or populations, and the grants ended, while the remaining 26.7 percent were beds or slots funded from more discretionary sources that have been cut as a result of State and County budget shortfalls.

Given the current County and State budget problems, significant additional funding for substance-abuse treatment programs is unlikely. There are some limited steps that can be taken to try to extend the available resources to the extent possible.

For the Office of Pretrial Services specifically, all clients whose release conditions include substance abuse treatment and counseling should also be directed to participate

in some sort of social support activity. An example of such a program would be Alcoholics Anonymous or similar 12-step programs. However, existing court decisions do not allow County staff to specifically order clients into 12-step programs, which have been determined to include religious content. The Director of Alcohol and Drug Services reports that social support programs that are non-religious in nature do exist, and that DADS staff can help clients find them, and that judges in Santa Clara County have accepted having clients participate in such programs, as long as the client is allowed to choose an option, if so desired, that does not have a religious element. The Director stated that it's worthwhile to have clients participate in such a program of their own choosing.

As for the Department of Alcohol and Drug Services, we have identified two issues related to the efficiency with which the treatment services it has available are used. First, our observation of the Gateway Center found, and the Center's manager confirmed, that treatment slots designated for non-English-speaking clients are not being used. During our visit on November 17, 2011, we reviewed a white board used by Gateway Center staff to track the treatment slots available. As noted earlier, on that day 67 treatment slots were available for clients for the week of November 28-December 2. However, the white board also showed that two Vietnamese-speaking and four Spanish-speaking slots for the week of November 21-25 were also open. These slots had been available for allocation since November 10, but had not yet been used, because there were no client requests for them. According to the Gateway Center manager, even clients able to receive counseling in Spanish prefer to get it in English.

Based on this information, we recommend that the Department of Alcohol and Drug Services request that treatment slots allocated to Vietnamese- and Spanish-speaking clients be redesignated as dual-language treatment slots, assuming the counselors are able to speak English. Our specific proposal would be that a treatment slot, initially allocated to non-English-speaking clients, be opened up for use by English-speaking clients if the slot is still unused a week after initially becoming available. By that standard, the five non-English-language treatment slots for November 21-25, would have been made available to English-language clients on November 17. During the exit conference for this audit, the Director of Alcohol and Drug Services reported that, in

response to this finding in the draft audit, the Department has taken about half the treatment slots previously designated only for non-English-speaking clients, and redesignated for use by either non-English-speaking or English-speaking clients, based on demand. The Director reported that DADS will continue to monitor this issue, and make additional adjustments as warranted. He said he prefers to always have some slots specifically reserved for non-English-speakers, even if at times they go unused, because these populations tend to be slighted in the availability of resources, and end up not pursuing treatment if getting it is too difficult. However, he acknowledged the need to flex the resources toward different populations at different times, as reflected by our review of the Gateway system.

Our second efficiency concern regarding efficient use of substance-abuse treatment services is whether procedures are in place to properly identify clients who are eligible for services by virtue of being State prison parolees now under supervision by County probation officers as a result of the realignment approved for the FY 2011-12 State budget. As noted earlier, on November 17, there were seven such slots available for the week November 28-December 2. However, there were also 10 slots for November 21-25, none of which had been utilized.

During the November 17 observation at Gateway Center, one of the Health Service Representatives identified such a client. We listened to her side of the conversation with the client, who had called in twice previously for service, according to the client's record in the Gateway Center screening system. In response to a standard question from the HSR about whether the client was on parole or probation, she said the client responded that he was "some special kind of guinea pig." Following up that response with additional questions, the screener determined that the client was eligible for one of the realignment-funded treatment slots, and provided him an appointment for the following week (November 21-25). She expressed a concern that the Center may have missed similar clients, because the standard screening questions did not adequately identify them.

We concur with the concern. In order to properly identify such clients, Gateway staff would need to ask some version of the following: 1) Are you on parole or probation,

and if so, which one? 2) If you are on parole, are you currently reporting to a State parole officer, or have you been assigned to a County probation officer for reporting? Gateway Center staff could also ask specifically for the name of the officer to whom the client is reporting, and check it against lists they maintain of probation officers to confirm the information. This would address any concern about missing eligible clients. During the exit conference for this audit, the Director of Alcohol and Treatment Services reported that, in response to the analysis included in our draft report, a script had been developed for Health Services Representatives to use, as part of the Gateway screening process, to identify clients that are eligible to use the realignment-funded treatment slots. In addition, the Department had developed, in conjunction with the Probation Department, a form that probation officers who are supervising State parolees could fill out and fax to Gateway, for clients determined to need drug treatment services as a condition of their parole. Using that form, information on such clients will be entered in advance into the Gateway database, so that when the parolee calls in to seek treatment, they will already be identified as eligible for realignment-funded services.

During the exit conference, the DADS Director suggested it would be useful for him to report regularly on the progress of this approach to the Community Corrections Partnership, established by the State realignment law as an advisory committee for each County on its implementation. The 15-member committee includes the DADS Director, the County's Chief Operating Officer, the Presiding Judge of the Superior court, and other key County department heads and leaders of community-based organizations expected to be heavily involved in implementing the realigned programs. We concur with the Director's suggestion.

More broadly, this incident we identified regarding Gateway indicates the need to make sure that County departments develop procedures to address identifying clients eligible for services under the new realignment program, for which the State has provided additional funding to the County. This is not surprising, since the realignment was approved in the waning days of State budget deliberations, and was then imposed on counties with relatively little advance notice or advice on planning for its implementation. The County's implementation plan for the public safety portion of realignment was only approved by the Board of Supervisors on September 27, 2011, as

field work on this audit was concluding. Accordingly, we recommend that the County Executive send all departments a memorandum reminding them of the need to develop procedures to identify clients eligible for programs under the new realignment, requesting that departments provide a description for the Community Corrections Partnership of the steps they have taken to do so. The Partnership would then track those efforts as part of its oversight of implementing realignment in the County. The Partnership is the appropriate entity to do so, since its membership includes the Chief Probation Officer, the Sheriff, the District Attorney, the Public Defender and the Directors of DADS, the Mental Health Department and the Social Services Agency, all of whom have programs whose funding and responsibilities were impacted by the new realignment program.

Finally, DADS should explore whether there are any alternatives to the current system of issuing outpatient treatment slots to clients on Thursday mornings, which creates a substantial queue of calls on hold, and results in clients staying on line for an hour or more, only to be told no slots are available. According to the Division Director for Adult Treatment, in the past DADS kept waiting lists of patients for outpatient treatment and contacted them as slots became available. However, the Director reported that “we lost people” in terms of being able to contact them, after about two weeks of waiting.

The Management Audit Division suggests that one alternative is to have treatment providers report the availability of treatment slots as they become available, rather than weekly on Wednesday, and make those slots available to new clients as providers identify them. We recommend that the treatment providers, when they report each Wednesday on the treatment slots they can firmly commit to making available in the period that is two-weeks away, also report to the Quality Improvement Unit the number of slots that appear to have been vacated by a client (and the date vacated), but are being held for a 30-day waiting period. Quality Improvement Unit staff would then be able to better plan when future slots will become available, and should discuss with the provider whether additional slots can be committed to sooner than on the regular Wednesday date. To the extent this change spreads out the number of slots available for allocation each day, it may also reduce the volume of calls on any one day, reducing waiting times. This change may also result in more efficient use of treatment resources,

by allowing new DADS clients to move more quickly into treatment as existing clients complete their program, or are terminated.

Furthermore, County staff referring clients to Gateway need to emphasize that clients should make their first call as soon as possible, and not to wait until Thursday mornings. Pretrial Services Officers are doing this, according to their procedures, but it needs to be reemphasized. Ideally, the calls Gateway receives on Thursday mornings should be only from clients that have already been screened, and are simply calling in to find out if a slot is available. That would reduce the amount of time Gateway staff spend on each call on Thursday mornings, because their sole duty would be to assign clients to available treatment slots, which takes much less time than fully screening a new client.

The other way to address the waiting times at Gateway would be to temporarily increase staffing during the heaviest periods, so that more calls could be answered more quickly. This could be accomplished if Gateway's heaviest work load could be spread to another call center, which we recommend.

During a 2002 audit of the Mental Health Department, the Management Audit Division recommended that its call center and the DADS call center be combined, following recommendations from a separate consultant's report, issued in 2002. Since then, DADS in FY 2009-10 shifted from using Rehabilitation Counselors to conduct assessments over the phone, to the current model using Health Services Representatives that screen clients for the proper services using a written questionnaire. During the exit conference for this audit, the Director of Alcohol and Drug Services said analysis of this step has found that the written questionnaire has a 90 percent accuracy rate in correctly identifying the level of service that clients need. The Mental Health Call Center continues to use clinical and paraprofessional positions, such as counselors to screen its clients, and therefore, the DADS Director believes combining those functions would be difficult. However, he reported that there are other call center functions within the Health and Hospital System that appear to be appropriate to expand the capacity to answer client phone calls beyond what is available through the current Gateway staff, without requiring additional personnel costs. The Director reported he has begun

discussions to achieve this goal, and concurred that a solution needs to be found to reduce telephone waiting times. The Director also said he would examine procedural changes to address the backlog, such as having clients call in on different days of the week based on their last name, to spread out the call volume.

CONCLUSION

Budget-related reductions in the availability of substance-abuse treatment services have resulted in lengthy delays for Office of Pretrial Services clients to get treatment services that are required as a condition of release. An examination of 43 clients who failed supervision from October 2010 through February 2011 included 27 clients who needed such services, and 16 of those clients that sought services via Gateway waited an average of 35 days between first seeking services, and finally beginning treatment. Treatment delays make it difficult for clients to avoid substance use, resulting in new arrests, failures to appear in court or drug-test failures that result in revocation of release. Compounding this problem, the Gateway Assessment Center, through which PTS clients and other County residents request treatment, issues treatment slots once a week on Thursday mornings, resulting in situations where clients wait for more than an hour on the phone, only to be told no treatment slots are available.

RECOMMENDATIONS

It is recommended that the Office of Pretrial Services:

- 4.1 Require all clients whose conditions of release require substance abuse treatment services to also attend a social support activity of their choosing.

It is recommended that the Department of Alcohol and Drug Services:

- 4.2 Arrange with providers of substance-abuse treatment services to convert treatment slots now reserved for Spanish- or Vietnamese-speaking clients to dual-language slots that can be provided to English-speaking clients once a slot

is unused for seven days after becoming available. In response to the draft audit, some slots have been converted to dual-language-use, and DADS is monitoring the availability of slots in relation to demand.

- 4.3 Revise Gateway Assessment Center procedures to include screening questions, such as those described in this section, that would adequately identify clients that are eligible for services funded through the realignment of State services to counties that was part of the FY 2011-12 State budget. This recommendation, along with a referral form that can be completed by probation offices overseeing state parolees, and forwarded to Gateway, has been implemented.
- 4.4 Determine if there is an alternative to the current practice of issuing outpatient treatment slots weekly on Thursday mornings, which creates substantial telephone backlogs. Options include: a) having providers report on available treatment slots, and having Gateway issue them to clients, as they become available, in order to spread phone traffic through the week; b) reemphasizing the need for clients requiring treatment to call in as soon as possible to be screened, so that Gateway staff primarily spends Thursday mornings scheduling appoints, rather than screening new clients; and, c) pursue spreading workload from the Gateway Center's heaviest volume period, on Thursday morning, to another call center within the Health and Hospital System. The DADS Director has reported that he has initiated discussions with other call centers in the system to address this recommendation.

It is recommended that the County Executive:

- 4.5 Issue a memorandum to all County departments reminding them of the need to develop procedures that address the new realignment of services from the State to the County, and requesting that they report to the Community Corrections Partnership, which is overseeing implementation of the new realignment in the County, what changes they have made.

SAVINGS AND BENEFITS

Directing Pretrial Services clients to participate in social support programs of their own choosing is a no-cost interim step that could help clients reduce or eliminate substance abuse until such time as more formal treatment is available. Providing English-speaking clients with treatment slots that otherwise go unused more efficiently uses resources that are still inadequate to the need, while revising procedures to account for the new realignment program, both in DADS and in other County departments, ensures that clients eligible for programs funded by the new realignment are identified and served. Changes in the current process of issuing substance-abuse treatment slots to campus would potentially reduce the current telephone backlogs of clients seeking services. Based on a sample of 16 clients reviewed that failed supervised release, and experienced delays averaging 35 days in getting substance abuse counseling services, we estimate that about 156 supervised release clients annually experience this same problem, and fail release, resulting in 1,404 to 4,774 additional days in jail, and costs of \$286,121 to \$972,893 that could potentially be saved if these clients successfully completed pretrial release.

Section 5. Enhancing the Supervision Process

Background

- The Superior Court annually releases approximately 1,800 persons from custody into the community while awaiting adjudication of their case, under supervision of the Office of Pretrial Services (PTS). The Office of Pretrial Services Supervision Division monitors most of the criminal defendants needing oversight while released on their own recognizance.

Problem

- Interviews with Division staff, and a review of 43 cases in which supervised release was revoked, showed that a case rating system used by the Division to assign cases is not employed in a coordinated way with a client risk analysis system used by other PTS units, and does not guide selection of supervision strategies. Furthermore, the Division makes limited use of technology in carrying out its supervision responsibilities, compared to pretrial agencies in other jurisdictions, despite having relatively high caseloads.

Adverse Effect

- As a result, supervision is relatively reactive and standardized for most clients, since Supervision Officers generally spend most of their time in the office while placing responsibilities on clients to comply with weekly check-in and drug testing requirements, and to monitor their own court dates. In addition, because the Division does not use electronic alcohol monitoring technology, some clients that could feasibly be released with supervision are not, and remain in custody.

Recommendation, Savings and Benefit

- By tying supervision tactics more closely to the initial risk assessment conducted by PTS staff, and making greater use of technology, the Supervision Division could target staff time to the most difficult clients, including more extensive use of face-to-face meetings, and require some clients to make multiple telephone check-ins weekly. Collectively, these measures would enhance client chances of success and reduce the Supervised OR Program failure rate, reducing the Main Jail inmate population.

How Supervised Own Recognizance Works

While some criminal defendants evaluated by the Office of Pretrial Services (PTS) are deemed suitable for release without oversight, because their risk of new offenses failing to meet court dates is determined to be low, most must be monitored during their time out of custody. While Court Division staff, that have other primary duties, monitor some less risky defendants, primary oversight of defendants, including the more complex and risk cases, is assigned to the Supervision Division, which consists of five Pretrial Services Officer positions, reporting to a Pretrial Services Supervisor. This Division also includes two Pretrial Services Technicians who run the Drug Testing Center, discussed in Section 6.

According to statistics reported by PTS, for the first seven months of 2011, PTS supervised an average of 681 defendants. The average caseload per Supervision Division Officer ranged from a low of about 65 cases, in November 2010, to about 90 cases in July 2011. PTS staff attributed the increase to the new pretrial screening tool discussed in Section 2 of this report, which staff said has increased the number of defendants eligible for supervised release. The Pretrial Services Supervisor for the Division said 90 cases represents the approximate maximum caseload a single Supervision Officer can properly oversee, although the Division has no procedures limiting the number of cases an officer is assigned. PTS caseloads are relatively high, considering that the caseload standard established in Virginia, which developed the risk assessment tool now being used in the County of Santa Clara, is 40 cases per officer. In a survey of nine California counties with pretrial services programs conducted by the Management Audit Division for this audit, only San Diego County reported information on supervising unit caseloads, stating it was 25 to 30 clients per officer.

Defendants released from custody are directed by the Court to contact the Office of Pretrial Services between 3 p.m. and 5 p.m. the day after their release. A receptionist takes down basic contact information, and tells the defendant the Supervision Division officer to which they have been assigned. The client must call that officer right away to arrange for a face-to-face intake interview. The interview, usually about an hour, is used to explain in detail the terms of the client's release, the consequences of failing to meet

them (a return to incarceration), and procedures necessary for the client to meet those terms. Generally speaking, the most important term is for the client to contact the Supervision Officer weekly, on a specified day, to report any changes in their telephone number or address, or other changes in their status, and to reconfirm when their next court date is. Clients that have required weekly drug testing, discussed in Section 6 of this report, must report their next test date, and the Supervision Officer monitors their test results. Clients required to get substance-abuse treatment, discussed in Section 4, also report their progress in seeking such treatment.

In interviews, Supervision Officers said they prefer to speak with clients personally, to briefly get a sense of how the defendant is doing, although some permit clients just to leave messages if there are no changes, and the Officer does not answer the check-in call. When check-in dates or drug tests are missed, or a positive drug test occurs, Supervision Officers said they call clients back as soon as possible, to find out why the release terms aren't being followed. Officers employ various methods, including sending letters to clients that don't check in, verbally admonishing clients for supervision failure, and asking judges to verbally admonish clients during court hearings for positive drug tests or other errors, or to impose other sanctions. Ultimately, a Supervision Officer can move to revoke a defendant's release for failing to meet the release conditions. Revocation almost always occurs if the client fails to make a court appearance, or is arrested for a new offense while under supervision, or fails three drug tests.

While these approaches are acceptable, we would characterize them as reactive, and generally reflecting a one-size-fits-all approach. By reactive, we mean that Supervision Officers mostly react to missteps by clients, such as missed check-ins, missed or failed drug tests, missed court dates or missed treatment appointments. Contacts between Supervision Officers and clients are by phone, unless the client is ordered to check-in personally, which happens infrequently. For clients participating in substance abuse treatment, Officers monitor the treatment by phone, and by receiving written reports from treatment providers. Also, staff interviews, and a review of 43 cases where supervision and release was revoked, showed that no clients were ever directed to check-in more than once a week. Further, while clients are required, as part of the

check-in process, to tell officers when their next court date is scheduled, PTS at the start of the audit had no reminder system for court dates, or for drug testing dates, as other jurisdictions have, which would enhance the chances for client success. During the exit conference for the audit, the Director of Pretrial Services reported that making reminder calls to clients on the day before they are due in court had been added in June to the duties of a Pretrial Services Technician assigned to the Drug Testing Station, in order to maximize that position's productivity, an issue discussed in Section 6. At the same time, clients were shifted from having scheduled drug testing times to random testing, with clients calling in to get information as to when they are required to test. PTS also developed a system where clients who have four weekly tests in a row that show no evidence of drug use are reduced to testing biweekly. Four clean biweekly tests permits a reduction to monthly testing. We endorse this approach for permitting a reduction in testing costs to clients, and appropriately matching supervision to client performance.

Linking Supervision to Risk Factors

As discussed in Sections 1 and 2 of this report, the initial decision whether to recommend releasing a client on his own recognizance is based on a screening tool developed in Virginia, and recently adapted for use in the County of Santa Clara. That tool uses information about the defendant, and answers to a series of questions based on the information, to determine the degree of risk present in releasing the defendant, based on a numerical score, that translates to a finding that the client is of low, average or above average risk.

Once a client is designated to be released under supervision, however, a different scoring system is used to assign the client to a Supervision Division Officer. This system was developed by the Pretrial Supervisor overseeing the Supervision Division, and scores each client on a scale of one to five points, as follows:

Points

Client Characteristics

- 1 Client must meet only basic release conditions, including initial contact with PTS on day following release, regular reporting as required to the PTS Supervision Officer, remaining in Santa Clara County unless granted permission for out-of-county travel, reporting changes of address, telephone or employment status immediately to PTS, and not violating federal or state laws.
- 2 Clients who move frequently, need non-English-language supervision, require more than weekly contact with a PTS Supervision Officer, or have been charged with felony child endangerment.
- 3 Homeless clients, clients required to participate in drug testing, clients facing domestic violence charges and clients with mental health issues
- 4 Any two characteristics from the two-point or three-point description, attributable to the same client.
- 5 Three or more characteristics from the two-point or three-point description, attributable to the same client.

Using this point system, the Pretrial Supervisor tries to balance the caseload among the five Supervision Division officers, and among Court Division officers that also supervise some less risky defendants. One-point clients are generally assigned to Court Division officers, while the overall point scores for the five Supervision Division Officers are maintained at about the same level, so that each officer's overall caseload has about the same complexity. A review of several sample logs maintained by the Supervisor shows that this goal was accomplished, with the five officers having caseload scores ranging from 176 to 198 points each. During the exit conference for this audit, the Pretrial Services Director reports that scores now exceed 200 points per officer, because the reduction of staff from six positions to five has required higher caseloads. The logs also confirmed that there are relatively few five-point clients to be assigned at any one time, while roughly 50 to 60 percent of each officer's caseload is three-point clients.

However, this does not take into account most of the information developed during the risk assessment process used to determine if a client can in fact be released, which includes the client's prior criminal history, their current charges and the circumstances of the crime, and more detailed information about the client's community ties than just their current residency status.

Furthermore, while current Office of Pretrial Services procedures state that the Supervision Office "will conduct a risk assessment of each case assigned to determine the defendant's risk of recidivism, flight and dangerousness given the information available," and "will formulate a supervision plan that mitigates those risks," interviews with Supervision Officers did not indicate that such plans were developed, in a formal way, beyond the basic requirements of having clients check in weekly, drug test as required, seek substance abuse treatment as required, and meet other supervision conditions imposed by the Court.

Also, Supervision Division written procedures suggest various steps other officers can take in overseeing a case, but give officers wide discretion as to which to use and when. For example, the procedures state that "Officers have the option of requiring the defendant to report more frequently by telephone or in-person depending on the circumstances of the case. Personal contact with the defendant is encouraged and desirable, whether by phone or in person, to reinforce compliance with the terms and conditions of the release." Later, the procedures state that when a client is homeless or has an unstable living situation: "The officer may have the defendant check in by telephone a few more times during the week or daily, depending on the circumstances. Also, the officer may require the defendant to report weekly in-person." The procedures also discuss the ability to seek formal admonishments by the court, but leave when to do so largely up to the Supervision Officer's discretion. The most specific instructions provided to Supervision Officers are regarding drug testing, via a statement that "in most situations, and unless the Court has requested otherwise, three positive tests would be sufficient to generate an admonishment/revocation report to the court."

As part of this audit, Management Audit Division staff reviewed a sample of 43 cases that were supervised by Pretrial Services Officers, and ended up having release

terminated by failure to appear in court, a new arrest, or failure to meet supervision conditions. The 43 cases reviewed in detail, using case logs maintained in the Pretrial Online Production System, were a random sample from the total of 173 clients whose releases were revoked from October 1, 2010 through February 28, 2011, and at least went through an intake interview with the assigned Supervision Officer. These case logs did not indicate development of a formal supervision plan. Furthermore, while Supervision Division procedures indicate that officers could have clients check-in more often, as a response to violations of conditions, or to have a case identified as requiring “Intensive Supervision” report more frequently, in none of the 43 cases was this step taken. Check-in was almost always by phone, unless a client had failed to check in, or had missed a drug test, in which case some clients were ordered to do their next check-in in person, often after they had drug tested. Establishment of curfews, where clients are confined to their homes during certain times of the day, also were not regularly ordered by judges, or used by Supervision Officers as a supervision approach. Officers did admonish clients verbally and in writing, and seek court admonishments when clients failed to follow release conditions.

By contrast to this system in the Office of Pretrial Services, which does not use all risk information on clients to assign them to Supervision Officers, or use this information to directly plan aspects of the supervision, other jurisdictions are attempting to more rigorously apply the risk assessment process to pretrial supervision strategies.

For example, the State of Colorado in 2006 initiated the Colorado Improving Supervised Pretrial Release Project. The project had two goals: 1) to develop a validated pretrial risk assessment instrument, to be used throughout the state, in place of less-rigorous assessment methods used in various counties; and, 2) to develop research-based pretrial release supervision protocols that match individual elements of a defendant’s risk profile to specific pretrial release supervisory techniques. According to information from Jefferson County, one of the jurisdictions spearheading this project, the new tool was expected to be implemented early in 2012. Once that occurs, various jurisdictions are expected to begin experimenting with various interventions for clients at different risk levels under the new tool, and gathering data to determine which of those strategies are effective. In an interview, Jefferson County’s Manager for Criminal Justice

Planning said the determination of the effectiveness of specific supervision strategies for clients at different risk levels is “where the pretrial field is nationally,” in terms of a major performance issue that needs to be answered.

Meanwhile, the Lake County, Ill. Probation Department, which also supervises pretrial defendants, implemented in 2006 a statistically-validated risk assessment tool based on the Virginia tool, much as the County of Santa Clara has done. Prior to introducing that tool, Lake County had two levels of supervision, one requiring defendants to be visited at home monthly, visit their officer after every court date, and be contacted by phone three times a week, and a second level requiring only a monthly home visit. Lake County used information developed from the new risk assessment tool to create three levels of supervision. Each only required one phone contact per week with clients. However, under the new system, the least risk clients received no home visits, medium risk received one visit, and the highest risk clients received two visits per month. This resulted in a substantial reduction in home visits to clients, but did not increase the incidence of failures to appear in court, new arrests, or violations of release conditions.

The County of Santa Clara Office of Pretrial Services should pursue, as a follow-up to its implementation of a validated risk assessment tool to recommend whether criminal defendants should be released on their own recognizance, use of the risk assessment provided by that tool to more specifically determine the strategies used by Supervision Officers to monitor clients on release. This pursuit would require consultation with the experts that have helped PTS implement the new tool as to experiments that could be conducted linking risk scores on the tool to specific interventions to be followed with clients, to determine the success of various approaches to supervision. It would also require using the new tool to assign cases to Supervision Officers, in place of the method now being used, and would require the development of more specific procedures mandating strategies to be used by Supervision Officers in supervising clients at the different risk levels.

During the exit conference for this audit, the Director of Pretrial Services concurred with the need to try and develop supervision strategies that more closely follow the needs of individual clients in both how stringent the supervision is, and the specific

approaches used. He reported that in July 2011, he had met with representatives of Assessments.com, which sells assessment tools of various types, because he's not sure the risk assessment tool being used by Jail and Court Division staff to make release recommendations is appropriate to use in developing supervision strategies. As the foregoing discussion indicates, developing evidence-based supervision approaches for pretrial defendants, as a next step to the use of assessment tools in making release decisions, is considered a significant issue in the field. Much of the debate concerns whether tools now used primarily to assess probation clients can be used or adapted for use with pretrial clients. Based on our 2006 audit of the Probation Department, Office of Pretrial Services clients are typically under supervision for much shorter periods than are probationers, but their weekly contact, under present policies, with clients is more frequent than generally occurs for probationers. Ultimately, the goal of this process should be trying to figure out how to motivate clients to follow conditions of supervision, beyond just the threat of sanctions if they fail to do so.

Expanding the Use of Technology in the Supervision Process

Attempts by Supervision Officers to use different supervision tactics for clients at different risk levels, such as having some clients check-in more often than once a week, having clients meet face-to-face with the Supervision Officer for some or all of their contacts, or having Supervision Officers meet face-to-face with substance abuse treatment providers regarding clients, rather than relying on telephone calls and written progress reports, are hampered by the size of caseloads, and the fact that the Office of Pretrial Services does not use technology in ways that peer organizations do.

PTS does have the Pretrial Online Production System (POPS), which Supervision Officers universally praised. POPS is an electronic case management system, which allows officers to track basic information about a client, keep an electronic log of contacts with that client, court dates, contacts with treatment providers and other case events. POPS also automatically alerts an officer when there is a problem with a particular client, such as a missed telephone check-in, a missed court date, a new arrest or a positive drug test.

However, all contacts from clients to Supervision Officers are in person or by phone, with the Supervision Officer answering the call personally, or if they are not there, receiving a voice mail message. Furthermore, PTS also makes very limited use of electronic monitoring of clients. The Supervision Division Supervising Officer reported during an interview that there was only a single client using electronic monitoring at the time of the audit, in the form of a radio frequency monitor attached to the ankle. The manager reported that judges are reluctant to put PTS clients on electronic monitoring, because they have to be credited for time served on electronic monitoring for the purpose of sentencing. The manager also reported that he supervised those clients personally, because an officer needs to be available to respond to alerts provided by the device, and for line staff to do so would require payment of overtime that PTS is trying to limit for budgetary reasons.

By contrast, other agencies make greater use of technology for client check-in, from a number of commercial systems available. According to literature by one provider, BI Incorporated, when using its BI Self Report system “clients call an automated system to verify their identity through biometric ‘voice print’ authentication. Then, they easily report status changes, compliance with conditions of release, basic changes in employment or home address, attendance at treatment programs and more. If a client forgets to check in, Self Report makes reminder calls which can enhance client compliance.” It should be noted that these various systems are vendor-hosted, so that jurisdictions using them do not have to buy hardware of their own.

An Internet search found that this type of system is in use in various jurisdictions, including Ann Arundel County, Maryland; Bexar County, Texas; and, Monroe County, Florida. Monroe County specifically reported that it moved to automated telephone reporting because managing basic contacts with clients took too much staff time that instead should be used to provide more services directly to clients, particularly higher risk clients. Its system automatically reminds clients to check-in, and also reminds them of drug test and court dates, and automatically notifies pretrial staff of exceptions or missed check-ins.

In addition to the use of such systems at the local level, representatives of the U.S. Office of Probation and Pretrial Services, reported during the 2010 National Association of Pretrial Services Agencies annual conference on the use of such systems in federal courts, including voice recognition technology for lower risk offenders, which is generally used to track offenders who must comply with curfews. Among the federal courts using this technology is the Eastern District of New York, which includes the New York City metropolitan area.

An example of the extensive use of such technology is the High Intensity Supervision Program by the District of Columbia Pretrial Services Agency. This program targets clients that have failed other supervision programs. Such clients are monitored at home 24 hours a day for their first 21 days in the program, followed by a 10 p.m. to 6 a.m. curfew. Infractions are punished by a longer curfew, or expanding the days of 24-hour home confinement, as intermediate sanctions, rather than reincarceration.

Furthermore, technology exists that could potentially permit types of defendants that are now rarely released to be included in the Supervised Own Recognizance Program. For example, BI Inc. offers BI TAD, a continuous alcohol monitoring system that monitors alcohol levels using a sensor attached to the skin. Among the jurisdictions using this system are Philadelphia, Pennsylvania and Pierce County, Washington. The potential of such a system is reflected in a sample the Management Audit Division reviewed of 472 cases from June 2010 through February 2011 that were eligible for release, but were not recommended by the PTS Jail Division, as discussed further in Section 2, because their criminal histories or the nature of their charges indicated the risk to public safety was excessive. This sample included 52 cases where the charge was alcohol-related, almost always driving while intoxicated and getting into an accident, without other non-vehicle-related charges. These are cases that potentially could be eligible for release if some sort of alcohol monitoring technology were available, depending on the client's other risk factors. According to the Supervision Division Officers interviewed for this audit, there have been limited instances where such technology has been used in the County of Santa Clara, because a defendant had proposed this monitoring and had offered to pay a third-party provider for its costs, which were an initial \$200 fee, and a \$15 per day charge.

The Office of Pretrial Services should pursue adding use of new technologies to its supervision resources, in particular a voice-recognition check-in system that also provides reminders to clients of check-in dates, court dates and the need to call in to find out when a drug test is scheduled. Such a system should be used for the lowest-risk defenders that are under supervision, or as a strategy to be implemented for clients that initially perform well under supervision using the current methods that emphasize personal check-in with Supervision Officers. Time freed up by using such technology should be used to expand the depth of supervision for higher-risk clients, or for clients that initially perform poorly, including more frequent check-ins, in-person meetings between Supervision Officers and higher-risk clients, and visits in person by Supervision Officers to treatment providers. PTS should seek non-County grant funding for a pilot project to incorporate new technology into its program, and funding through the County's technology funding program. Use of such technology would permit PTS to devote more staff time to clients that need it most, in order to further increase the percentage of clients that complete supervision successfully. New technology could also permit the expansion of supervised own recognizance to clients now believed too risky to join.

CONCLUSION

The current method of assigning clients to Supervision Division Pretrial Services Officers does not directly tie back to the initial risk assessment conducted to determine that clients are eligible for release. High caseloads and limited use of technology require Supervision Officers to oversee clients using approaches that are similar from one client to another, and are largely passive, requiring clients to check-in weekly by phone. Supervision Officers cannot or do not regularly multiple check-ins each week, more frequent face-to-face meetings with clients, or other tactics that are more closely tied to client risk levels and performance. Also, some clients that might be eligible for release, using new technologies, now remain in custody, because they are deemed too risky.

RECOMMENDATIONS

It is recommended that the Office of Pretrial Services:

- 5.1 Develop a Supervision Division case-assignment system, and procedures describing the strategies used with clients, which are based on the risk assessment tool that was recently developed to determine which clients are recommended for release, or by another evidence-based assessment method that would permit better tailoring of supervision strategies to the needs of individual clients. (Priority 1)

- 5.2 Pursue adding new supervision technologies, in particular a vendor-hosted automated voice-recognition check-in system for lower risk clients, or those who initially perform well under standard supervision methods, as well as a remote alcohol monitoring technology that would permit additional clients with alcohol-related charges to be placed under supervision. PTS should seek grant funding for this technology, and funding through the County's technology program. (Priority 3).

SAVINGS AND BENEFITS

Tying the case assignment system and supervision methods to the new risk assessment tool will ensure that client supervision uses all the information on client risks obtained from the risk assessment tool. Use of technology in supervision of low-risk clients, or on clients that initially perform well under supervision, will allow Supervision Officers to more effectively target their efforts to the more difficult clients, or to those that initially perform poorly, which should increase the percentage of clients successfully completing supervision.

Section 6. Office of Pretrial Services Drug Testing Center

Background

- The Office of Pretrial Services collects and tests approximately 10,000 specimens annually from clients who must participate in drug testing while awaiting adjudication of their cases. Two Pretrial Services Technicians collect urine samples at the Drug Testing Center located behind the Main Jail. These specimens are analyzed by a contract laboratory at a cost of about \$6.38 per specimen, or \$65,000 annually. The majority of these clients are ultimately convicted, and many receive a sentence that includes continuing drug testing while on probation. The Probation Department collects and sends more than 42,000 specimens from about 9,700 clients annually to Valley Medical Center (VMC) for this testing.

Problems

- While the cost per unit of services provided under PTS' drug testing contract is reasonable, and appears to be comparable to the cost the Probation Department is charged, the low volume of female clients make specimen collection costs expensive, averaging \$35.81 per specimen. Further, contracting for laboratory testing results in unnecessary additional costs, since the same fees paid to the VMC laboratory would fund a part of the County's facility, equipment and overhead costs for that laboratory, in addition to the variable testing cost.

Adverse Effect

- The high cost of female specimen collections at the existing Drug Testing Center, primarily related to the need to provide a full-time female employee as part of the staffing, causes PTS to incur \$50,372 to \$67,123 in unnecessary collection costs annually. Further, dividing the laboratory work between VMC and an outside contractor is less cost-effective than performing all the testing of urine samples in-house at VMC.

Recommendation, Savings and Benefit

- By restructuring the staffing model for the client specimen-collection function, and consolidating analysis of PTS drug specimens with that of the Probation Department at VMC, PTS could reduce staffing costs by \$50,372 to \$67,123 annually, and VMC would receive at least \$65,000 of additional revenue per year, offset by its variable testing costs for the additional specimens.

Drug Test Center Background

The Office of Pretrial Services (PTS) operates its own Drug Testing Center for PTS and Family Law Treatment Court (FTLC) clients. In March 2011 the Testing Center hours changed from 7 a.m. to 7 p.m. Monday and Tuesday, and 9:45 a.m. to 6:30 p.m. Wednesday, Thursday, and Friday to the current schedule of Monday through Friday from 9:45 a.m. to 6:30 p.m. Under the previous schedule, two full time staff worked eight hours every day, and one female and one male extra-help staff person worked four-hour shifts Mondays and Tuesdays. The scheduling change eliminated the need for weekly extra help.

Currently two Pretrial Services Technician positions are always assigned to the Testing Center, one male and one female, because testing protocol requires separate gender supervision. When an employee is absent or on vacation, designated extra-help fill in. The testing process, from check-in to completion, takes three to five minutes per client, although some clients may take longer if they have difficulty producing a urine sample. The test samples are forwarded to Pharmatech, a contract lab that analyzes and reports results to PTS electronically.

According to Testing Center staff, with the new schedule the busiest time of day is when the Center opens at 9:45 a.m., except on Friday when there are fewer appointments. Rather than having clients waiting when Testing Center staff arrives, they should start work at 9:30am, or appointments should start at 10:00am, so the staff would have 15 minutes before the first appointment to prepare for the workday.

The Testing Center door is always locked. Arriving clients ring the doorbell. A staff member answers the door, finds out the client's payment status and enters their information into the Pretrial Online Production System (POPS) and the Pharmatech websites, the latter of which generates a form and urine sample labels. When testing FLTC clients, staff also record arrivals on a paper log to be submitted to the FLTC. Once the administrative requirements are complete, the staff person admits the client, who pays the drug test fee, if necessary, and signs the Pharmatech form. Clients who are determined by Pretrial Supervision Division officers to be unable to pay for drug testing receive free test vouchers, which are paid for by PTS. The staff person then accompanies the client to the restroom and observes as the client provides a urine sample.

After the last appointment, typically at 6:30 p.m., one staff person brings the cash collected during the day and completed paperwork to the PTS Office. The staff person

delivers the most recent test results and the day's sign-in log listing the clients that attended appointments to the mailboxes of PTS Supervision Division Officers. Dropping off the test fees and paperwork takes about 15 minutes. If a client calls to report they will be late for a test, Testing Center staff reported that they voluntarily wait up to 30 minutes for the client, without overtime pay.

Because PTS controls and operates the testing center, PTS can ensure tests are sent to the contract lab on a daily basis and results come back quickly for the Supervision Officers to review and act upon. Test results are automatically uploaded into POPS, and are shown on a display for each client showing the date of the test, whether the client showed up, and whether they had any positive test results.

Inefficiencies with the Drug Testing Fee Collection System

PTS clients are charged \$15 for a routine eight-panel test that includes marijuana, cocaine, methamphetamine and other drugs, and \$25 for a nine-panel test that also includes alcohol. As noted earlier, many clients pay reduced or no fees through the use of vouchers, based on evidence of their inability to pay. There are three payment options. PTS clients can pay the PTS Main Office receptionist in advance for tests, FLTC clients can pay the FLTC staff in advance, and clients also can pay at the Testing Center if their appointments are after 5 p.m., when the other locations are closed. If a question arises regarding the payment schedule or amount, Test Center staff typically send the clients to speak with their assigned PTS Officer.

Allowing clients to pay for tests at the Testing Center requires unnecessary administrative work for drug test and PTS staff. Drug testing staff collects and records the cash and receipts, and drop them off at the PTS Office at the end of each day to be reconciled by PTS clerical staff. Additionally, storing money in an unlocked box in a drawer next to the location where drug testers sign paperwork and submit payment to testers at the Testing Center is an internal control weakness, and could potentially subject staff at the Testing Center to a greater risk of robbery or theft. Although typically no more than \$100 is collected during a given day, the unlocked box, and the cash inside, is visible and within easy reach of drug testers who pay at the Testing Center. Furthermore, cash collections occur after 5 p.m., when most County Government Center staff are gone, and the Testing Center is located where there is limited pedestrian or vehicle traffic at that time. All clients should be required to pay at the PTS Office and should be required to pay in advance for appointments scheduled after the PTS Office closes at 5 p.m.

In addition, on two occasions during our three-hour observation of the Drug Testing Center, staff answered the doorbell, looked up client information in POPS, realized the client had no payment credit for tests, and called a designated PTS Officer, who informed the staff that he had forgotten to update new voucher information, and gave the client permission to take the test without paying. Center staff said that it was common for PTS Officers to forget to update payment information in POPS. If possible, POPS should provide a prompt to PTS Officers, at the time the results of the last paid drug test are uploaded to POPS, to update client payment and voucher information. Otherwise, clients potentially end up with past due test fees for tests they have taken, but have not paid for. Furthermore, according to the Testing Center staff, PTS receptionists do not always collect past due test fee payments when they collect current payment, leading to a backlog of unpaid fees, possibly because receptionists may not be checking the database for payment history when collecting fees. During the exit conference for this audit, the manager of the Administrative and Support Services Division disputed these comments by Testing Center staff. Regardless of the problem's source, requiring clients to pay for testing at the PTS office, in advance, would eliminate problems with handling cash at the Testing Center, and with past-due tests. PTS new policy of allowing clients who show initial success on a series of tests to then test less frequently, as described in Section 5, should also help these problems. Furthermore, the Director of Pretrial Services reported that the department is working with the Finance Agency to implement non-cash and on-line payment systems for drug tests.

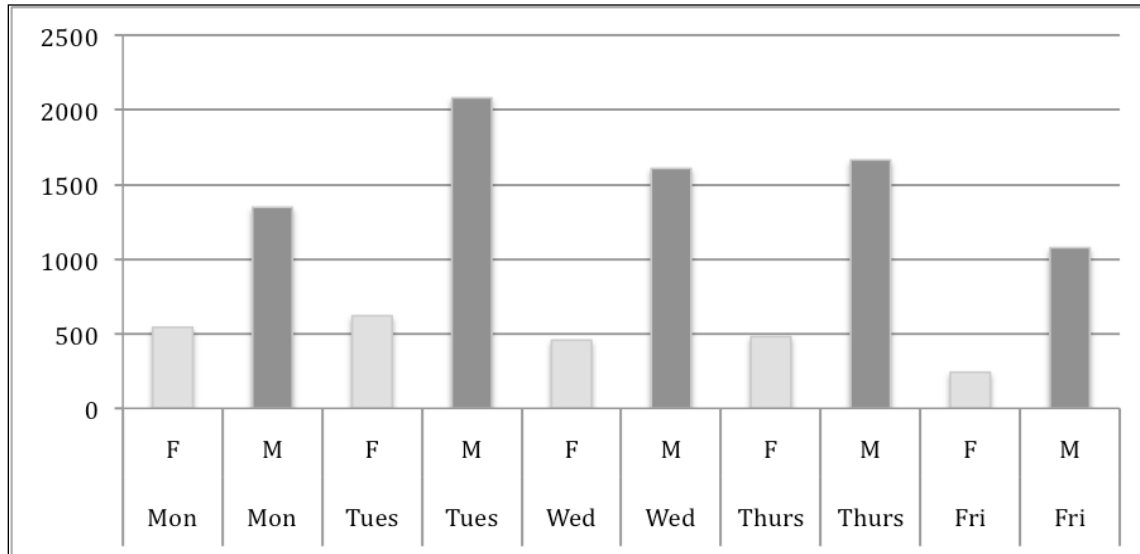
Testing Workload and Use of Non-Appointment Time

Based on actual 2010 client tests by gender, as obtained from PTS, an average of 31.1 male drug tests and 9.4 female drug tests were conducted daily. The only time of year when the Center is notably busier than usual, according to staff, is following a holiday when the Center is closed for one or more business days.

Table 7.1 and Figure 7.1 show the total number of tests conducted on each day of the week by female and male staff persons for 2010. The data reveal that 7,774 of 10,117 tests, 77 percent, were given to male clients, as compared to 2,343 tests, or 23 percent, given to women clients. Tuesday is the busiest day of the week, and Friday is a notably slow day for testing, particularly for female clients.

Figure 6.1 and Table 6.1

Drug Testing Appointments by Testing Staff Gender and Week Day: CY 2010



<u>Day of Week</u>	<u>Female</u>	<u>Male</u>	<u>Total</u>
Monday	543	1,347	1,890
Tuesday	620	2,080	2,700
Wednesday	457	1,607	2,064
Thursday	481	1,664	2,145
Friday	<u>242</u>	<u>1,076</u>	<u>1,318</u>
Total	2,343	7,774	10,117

Source: County of Santa Clara Office of Pretrial Services

The male Test Center staff person reports that when he has a break, he catches up on completing paperwork. On Fridays, which are the slowest day of the week, he counts supplies, restocks and orders inventory. He also said that it is difficult to be in the Center alone for more than an hour when it is busy. During the observation of the Test Center, the Management Auditor noticed that approximately one-third of the female staff person's time was not taken up with job duties. During the exit conference for this audit, the Director of Pretrial Services reported that, to maximize productivity, this staff person was given the additional duty of making reminder calls to clients on the day before their court appearance dates, as an interim measure to the adoption of potential new technologies for the supervision process, as discussed in Section 5. Given that non-

testing tasks do not require attention from two staff persons, and given that the female staff person oversees only an average of about one specimen collection per hour the Center is open for business, female testing hours should be reduced to one or two days per week, which would require only a part-time staff person. Based on the FY 2011-12 budgeted salary and benefits cost for a Pretrial Services Technician position, reducing this position to a part-time code would save from \$50,342 to \$67,123 annually. If finding a part-time employee for this function is not feasible, it should be staffed with extra help or an intern, which could further reduce costs. A full-time position solely testing female clients is not justified, based on the limited workload and our observations, since the cost of a full-time staff person for this function results in a cost of \$35.81 for each specimen collected from a female client at the Drug Testing Center.

Based on this analysis, Management Audit staff also contacted the Probation Department, which also is required to test clients for drug use, as a condition of probation imposed by the courts. Probation staff reported that it sends about 42,000 drug test specimens annually, from about 9,700 clients, to the laboratory at Valley Medical Center for analysis. Based on a review of actual billings in FY 2010-11 to the Probation Department by VMC, and to the Office of Pretrial Services by its contract lab, the cost per test is about the same, \$6.60 for VMC, and \$6.38 for PTS' contractor. However, using the VMC laboratory has the advantage of providing revenue that would help fund a portion of the County's facility, equipment and overhead cost for the VMC lab, through the charges PTS would pay for its services. The acting VMC laboratory director reports that the additional testing volume generated by PTS could be absorbed within the existing lab staff, and that the drug screening panels provided to the Probation Department are the same as those PTS is receiving from its contractor. In fact, the lab director noted that forensic chemists who conduct testing for the Probation Department, also did so for PTS, when they were part of the Probation Department staff, before being folded into the VMC laboratory staff. We recommend that the Office of Pretrial Services switch from its contract laboratory to the VMC laboratory for analysis of client drug-testing samples.

Meanwhile, drug specimen collection in the Probation Department is carried out by probation officers, as part of their regular contacts with clients. This approach is probably not feasible in PTS, because of the frequency of client drug testing, and the fact that PTS clients are not assigned to Supervision Division Officers by gender. Based on the volume of male clients using the existing Drug Testing Center, that center should remain open. VMC reports that it sends a medical lab assistant to pick up specimens from Probation sites, and would do so from PTS as well. As for female PTS clients, we

recommend that PTS, as part of providing additional workload to the VMC lab, negotiate with VMC for collection of female clients' urine samples at one of the VMC clinics, given the low workload of one female client per hour per day.

Suggested Improvements to the Pharmatech Website

Test Center staff use the Pharmatech website to (1) generate the forms that have the stickers placed on the appointment log and the urine samples and (2) monitor test results. The later is a time-consuming process that might be made more efficient if Pharmatech improved the software's query capabilities, assuming PTS continues to use this contractor for drug testing, rather than our recommended change to the VMC lab. During the exit conference for this audit, the Director of Pretrial Services noted that the change to Pharmatech from the previous vendor was not initiated by his department, but was the result of a contract solicitation process by the Procurement Department for Countywide drug testing. He reported that in February or March 2012, a formal Request for Information will be issued to vendors for a potential new Countywide drug testing contract. At the same time, a parallel process within the County will be used to verify that the VMC lab is capable of providing the drug testing services. It is expected that both the VMC lab and private vendors will be evaluated as options to provide Countywide drug testing, with a recommendation ultimately made to the Board of Sueprvisors by an existing Countywide task force on drug testing programs.

During periods when no clients are present, the Test Center staff runs inquiries in Pharmatech of the test results reported by the Lab in an effort to identify and report the most recent day's test results to PTS Officers. In order to obtain this data, the staff locates the most recent date with reported test results (e.g. on March 9, the most recent date was March 4), and marks the test results on a hard copy Master List of all drug tests completed over the previous 10 days. The staff then prints up a document for each PTS and FLTC client that received a positive test result to be dropped off in designated PTS Officer mailboxes at the close of the day.

The above-described method of identifying drug test results is time-consuming, especially in comparison to the Redwood Toxicology Lab online system, which the Testing Center used until fall 2010, when it changed to Pharmatech. With the previous software the Center staff could identify results for a single day using a single search option, rather than having to review all tests conducted during the previous 10 days. According to the PTS data manager, the test results are automatically updated in POPS and an alert is created for each client that has received a positive result. The alert is

visible to POPS users, namely PTS supervision staff. Given that the POPS system generates an alert, the Test Center staff should only print out test results paperwork for FLTC clients.

One staff person estimated that he currently spends a total of approximately two hours generating this testing results paperwork, whereas with the Redwood Toxicology system he could generate the same paperwork in about 45 minutes.

Test Center staff also said that Pharmatech does not upload the results as quickly as Redwood Toxicology. Usually there is a three to five day lag with Pharmatech, and Test Center staff said that PTS Officers often complained about how long it took to receive the results. During the exit conference for this audit, the Director of Pretrial Services reported that pursuant to the new contract, results are now returned within 48 hours.

PTS management should work with Pharmatech to (1) improve the test results search query function, and (2) determine if results could be reported in a shorter amount of time. PTS management should first request the improvements and then add a provision for faster results reporting in the next negotiated agreement. These issues would be eliminated if PTS implements our recommendation to contract with the Valley Medical Center laboratory for analysis of drug-test samples. During the exit conference for this audit, the Director of Pretrial Services reported that he's also pursuing a change in the testing mode, to use instant cup testing. This is a system where a preliminary test result can be generated via technology incorporated into the specimen container the client urinates into. If the result is negative, no further action needs to be taken. A positive result can be confirmed by additional laboratory testing. Since the instant cup test is \$3 or less per test, and further lab testing, at \$6.50 per test, would only be needed where a preliminary positive result is obtained, this approach should reduce testing costs. The options being considered include buying the instant cups from a vendor, but having confirming tests conducted by the VMC lab, when necessary, or both buying the cups and confirming testing from a vendor.

CONCLUSION

Observations of the Drug Testing Center for PTS revealed staffing and operational inefficiencies. In terms of staffing, because there are fewer female clients, female staff at the center has considerable downtime. With regard to scheduling, PTS clients arrive for tests at other than their scheduled times, and PTS Supervision Unit staff, who schedule client tests, sometimes fail to cancel appointments when cases close before a client has completed all tests. In terms of fee collection, drug test clients can pay for tests at the

center, which is not a secure location. Also, the current vendor laboratory that analyzes drug test samples is slower than the previous vendor, and its website is cumbersome for staff to use in obtaining test results. Outsourcing the laboratory testing of client specimens is not as cost-effective as performing the testing in-house at the Valley Medical Center laboratory.

RECOMMENDATIONS

It is recommended that the Office of Pretrial Services:

- 6.1 Modify the Drug Testing Center schedule for females to one or two days per week, rather than the current Monday through Friday schedule, to better match demand for female testing services. Associated with this recommendation, the 2.0 Pretrial Services Technician positions should be reduced to 1.0 positions, or 1.1 to 1.2 if a part-time position is preferred over extra-help. (Priority 1)
- 6.2 Coordinate with the Valley Medical Center Laboratory to develop and implement a contractual arrangement, including the requisite operating procedures necessary to transfer the PTS drug testing activities to the VMC Laboratory, in the same manner as the Probation Department transferred its drug testing requirements from a contractor to the VMC Laboratory. In addition, as an alternative to Recommendation 7.1, the VMC contract could also provide for PTS female clients to give urine samples at a designated VMC clinic. (Priority 1)
- 6.3 Consider the following operating procedural changes to its Drug Testing Program:
 - a) Discontinue accepting payment for testing at the Drug Testing Center and require all clients to pre-pay at the PTS Office or the Family Law Treatment Court. At the time of payment, staff collecting monies from clients should always determine if the client has any outstanding balance due and attempt to collect such amounts since PTS Officers sometimes authorize testing of a PTS client even though they have not prepaid.(Priority 1)
 - b) Discontinue producing hard copy records of positive test results that are then distributed to PTS Officers, since such results are automatically flagged in the POPS computer system and are visible to the supervising PTS Officers.(Priority 1)

SAVINGS, BENEFITS AND COSTS

Implementation of these recommendations would result in \$50,774 to \$67,123 in annual savings from eliminating one Pretrial Services Technician position, and would also allow the County to use drug testing fees from Pretrial Services clients to recover some fixed costs of the Valley Medical Center laboratory, rather than the using the fees to pay a contract laboratory. Additional efficiencies would be recognized through scheduling, fee collection, and drug test sample processing and reporting improvements.

County of Santa Clara
OFFICE OF PRETRIAL SERVICES



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Garry Herceg
Director, Office of Pretrial Services

February 10th, 2012

Roger Mialocq
Management Audit Division Manager
Harvey M. Rose Accountancy Corporation
70 West Hedding Street
San Jose, CA 95110

Dear Mr. Mialocq:

Attached to this letter is the response to the Management Audit of the Office of Pretrial Services.

I wish to thank you and your team for conducting a comprehensive audit of the Department. Your staff worked diligently during the process to deliver a fair, well thought-out, and meaningful report. The audit recommendations support the direction of the Office of Pretrial Services to always improve and to become the national leader in the delivery of Pretrial Services.

Please know that we have already begun to take action on implementing many of your recommendations.

Sincerely,

Garry Herceg
Director, Office of Pretrial Services

Office of Pretrial Services Management Audit

PTS Responses to Draft Recommendations

February 10, 2012

Section 1. Matching Jail Division Staffing to Workload

The Office of Pretrial Services Should:

- 1.1 Reduce staffing by one 0.6 FTE Pretrial Services Officer position, now being filled by extra-help, and by one full-time Pretrial Services Officer position. This recommendation was implemented as part of the Fiscal Year 2011-12 County Budget.

RESPONSE: Agree

As noted in the report, the department has already reduced staffing in the jail unit by 1.6 positions. Extra help employees are used only to fill in for employees on vacation, furlough, sickness, or other forms of leave.

- 1.2 Review the staffing plan proposed in this section, to determine if it would better match staffing to workload, with reduced staff, than the current staffing plan. If so, request the Office of Labor Relations to initiate, during the November 2012 window, discussions with Service Employees International Union Local 521 regarding the feasibility of implementing a mixture of 4/10 and 5/8 schedules in the Office of Pretrial Services Jail Division, as recommended in this section.

RESPONSE: Agree

A request has been made to the Office of Labor Relations to include this in the November 2012 open negotiation period. Further discussions with Service Employees International Union Local 521 will be scheduled in the near future.

Section 2. Reporting Recommendations Using the New Risk Assessment Tool

The Office of Pretrial Services Should:

- 2.1 Assess, based on the analysis in this section, and any additional analysis it conducts, in concert with relevant County judges, whether the release recommendations being provided using the new risk assessment tool are achieving the goal of releasing, based on being identified by a scientifically valid risk assessment, defendants that can be released, without compromising public safety and with reasonable assurance that they will comply with release terms, as required under applicable provisions of State law.

RESPONSE: Agree

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The Risk Assessment Instrument is currently undergoing validation by staff from the Pretrial Justice Institute in Washington, D.C. The department expects this process to be completed in the near future. Results of the validation study will be discussed with Court personnel and modifications of the instrument will be made if warranted. In addition to this, the department currently shares monthly performance data on the instrument with several Superior Court Judges.

- 2.2 Develop, as part of the Jail Division procedures manual, specific language to be used in the narrative portion of recommendations regarding pretrial release, which states the specific legal basis for the recommendation, and how individual circumstances of a defendant's case support that legal basis.

RESPONSE: Agree

The supervisor of the Jail Unit is currently working with jail lead staff to incorporate the language of Penal Code section 1275 in order to remove any doubt as to the reason for or against a defendant's release. The Jail Unit Supervisor will also solicit input from Superior Court and implement the finalized standard language within the procedures manual. Jail Unit Staff will then be trained on the standardized language.

Section 3. Increasing the Effectiveness of the PTS Risk Assessment Tool

The Office of Pretrial Services Should:

- 3.1 Work with the District Attorney to establish a policy of contacting Court Officers with changes in status that eliminate the need for a CAR as soon as possible, to minimize the time spent preparing reports that are not used.

RESPONSE: Agree

Initial discussions with the District Attorney have already taken place regarding the possibility of actual time electronic notification of cases that are not filed. In near future, IT staff from both departments will be meeting to discuss the implementation of such a process.

- 3.2 Develop procedures requiring narrative descriptions by Court Officers of the basis on which release is not being recommended, when the defendant's risk level is low or average as determined by the new risk assessment tool and there are no legal restrictions on releasing the defendant.

RESPONSE: Agree

In January 2012 an initial training took place with Court Unit personnel on this subject. Additionally, the Court Unit Supervisor will be working with Superior Court Judges to fully develop a more standardize narrative format. Further training and mentoring of staff will be occurring in the near future.

- 3.3 Communicate with judges and attorneys about the new risk assessment tool to ensure that they understand its components and purpose, in order to increase the tool's effectiveness in identifying appropriate release candidates; and evaluate the risk assessment tool ratings and modify the tool as necessary to improve the correlation between its ratings and Court Officers' recommendations.

RESPONSE: Agree

The Department currently shares monthly and quarterly statistical data with Superior Court on the effectiveness of the risk assessment tool. This will be expanded to include both the District Attorney's Office and the Public Defender's Office. The Department also provided training to the Public Defender's Office in February 2011 on the risk assessment tool. A shorter presentation was made to judges in June 2011. The Department hopes to make informational appearances before criminal justice partners on an annual basis. In addition, the Court Unit Supervisor will resume a prior practice of meeting each new judge to explain the Department's functions and risk assessment instrument. Once the validation study of the risk assessment tool is complete, modifications to the instrument will be made as needed.

- 3.4 Initiate a new process whereby Jail Officers prepare reports for misdemeanor domestic violence cases in the same manner as with felony cases, including locating victim and witness information from arresting agency affidavits, where available, or from brief interviews, when necessary.

RESPONSE: Agree

The Department is developing an interview format specifically for misdemeanor domestic violence cases, to be used both for bail setting and for the court's use when arraigning out of custody defendants.

- 3.5 Initiate a new process whereby Jail and Court Officers interview defendants of selected types of misdemeanor cases, particularly in situations such as domestic violence cases where not having information on community ties and stable employment could change the release recommendation.

RESPONSE: Agree

See response 3.4, this process will be extended to non domestic violence cases.

- 3.6 Initiate a new process whereby Jail Officers complete the Formal and Limited Formal reports for in-custody defendants housed in the Main Jail.

RESPONSE: Agree

[Type text]

The Department has instituted this process for the defendants who are in custody at the Main Jail and will extend it to the Elmwood facility as current resources allow.

- 3.7 Work with the District Attorney's Office and Courts to reduce the turnaround time for report production and scheduling related court dates.

RESPONSE: Agree

Pretrial Services Officers can prepare a report in three working days, and that is the standard time requested when setting a hearing date where our report will be the only item heard. However cases are often extended past three days in order for other judicial processes to take place. The Department will work with justice partners to reduce this turnaround time.

Section 4. Supervision and Substance Abuse Treatment

- 4.1 Require all clients whose conditions of release require substance abuse treatment services to also attend a social support activity of their choosing.

RESPONSE: Partially Agree

The Department recognizes that social support activities have relevance towards obtaining and maintaining sobriety. However the Department can only enforce Court ordered release terms. In order for Pretrial Services to implement this recommendation, the Court will have to order such a term of release. The Department will work with the Court to develop this recommendation as a standard release term of clients with substance abuse issues.

It is recommended that the Department of Alcohol and Drug Services:

- 4.2 Arrange with providers of substance-abuse treatment services to convert treatment slots now reserved for Spanish- or Vietnamese-speaking clients to dual-language slots, which can be provided to English-speaking clients once a slot is unused for seven days after becoming available. In response to the draft audit, some slots have been converted to dual-language-use, and DADS is monitoring the availability of slots in relation to demand.

RESPONSE: Defer to DADS

- 4.3 Revise Gateway Assessment Center procedures to include screening questions, such as those described in this section, that would adequately identify clients that are eligible for services funded through the realignment of State services to counties that was part of the FY 2011-12 State budget. This recommendation, along with a referral form that can be completed by probation offices overseeing state parolees, and forwarded to Gateway, has been implemented.

RESPONSE: Defer to DADS

4.4 Determine if there is an alternative to the current practice of issuing outpatient treatment slots weekly on Thursday mornings, which creates substantial telephone backlogs. Options include: a) having providers report on available treatment slots, and having Gateway issue them to clients, as they become available, in order to spread phone traffic through the week; b) reemphasizing the need for clients requiring treatment to call in as soon as possible to be screened, so that Gateway staff primarily spends Thursday mornings scheduling appoints, rather than screening new clients; and, c) pursue spreading workload from the Gateway Center’s heaviest volume period, on Thursday morning, to another call center within the Health and Hospital System. The DADS Director has reported that he has initiated discussions with other call centers in the system to address this recommendation.

RESPONSE: Defer to DADS

It is recommended that the County Executive:

4.5 Issue a memorandum to all County departments reminding them of the need to develop procedures that address the new realignment of services from the State to the County, and requesting that they report to the Community Corrections Partnership, which is overseeing implementation of the new realignment in the County, what changes they have made.

RESPONSE: Defer to County Executive

Section 5. Enhancing the Supervision Process

The Office of Pretrial Services Should:

5.1 Develop a Supervision Division case-assignment system, and procedures describing the strategies used with clients, which are based on the risk assessment tool that was recently developed to determine which clients are recommended for release, or by another evidence-based assessment method that would permit better tailoring of supervision strategies to the needs of individual clients.

RESPONSE: Agree

The Department has been searching for case-assignment system specific to pretrial clients since early 2011. Several are currently being considered for implementation however most are geared to probation supervision which is considerably longer than pretrial supervision. As to using the detention risk assessment tool for supervision strategies, this would be a stop gap measure as it is not a true assessment of the client’s needs. It actually measures a client’s probability to attend Court and to remain crime free. Fortunately a needs assessment for pretrial clients is under development in Colorado. The Department has been in contact with Colorado and hopes to partner with them when the tool is ready for implementation.

5.2 Pursue adding new supervision technologies, in particular a vendor-hosted automated voice-recognition check-in system for lower risk clients, or those who initially perform well under

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standard supervision methods, as well as a remote alcohol monitoring technology that would permit additional clients with alcohol-related charges to be placed under supervision. PTS should seek grant funding for this technology, and funding through the County's technology program.

RESPONSE: Agree

The Department is actively searching for grants to either purchase or contract for such technology. The Department is also requesting funding through the County's technology program for FY13 to address these needs.

Section 6. Office of Pretrial Services Drug Testing Center

The Office of Pretrial Services Should:

- 6.1 Modify the Drug Testing Center schedule for females to one or two days per week, rather than the current Monday through Friday schedule, to better match demand for female testing services. Associated with this recommendation, the 2.0 Pretrial Services Technician positions should be reduced to 1.0 positions, or 1.1 to 1.2 if a part-time position is preferred over extra-help.

RESPONSE: Partially Agree

One of the best practices in drug testing is to insure that random testing is being done. Having female clients test only two days per week, as the recommendation suggests, would eliminate random testing for female clients. Simply put, female clients would learn very quickly they would be tested on only two days. This could lead to manipulation of samples. As an alternative to the recommendation, the Department is exploring the option of female testing five days per week but only for 2-3 hours per day. Workload data is currently being reviewed to assess how to implement such a plan in the most efficient manner.

- 6.2 Coordinate with the Valley Medical Center Laboratory to develop and implement a contractual arrangement, including the requisite operating procedures necessary to transfer the PTS drug testing activities to the VMC Laboratory, in the same manner as the Probation Department transferred its drug testing requirements from a contractor to the VMC Laboratory. In addition, as an alternative to Recommendation 6.1, the VMC contract could also provide for PTS female clients to give urine samples at a designated VMC clinic.

RESPONSE: Partially Agree

Initial discussions with VMC regarding this recommendation began in January 2012. While VMC can not provide collection services for female clients at this time, they have stated they could provide lab services. A cost analysis of such a change is underway.

- 6.3 Consider the following operating procedural changes to its Drug Testing Program:

[Type text]

a) Discontinue accepting payment for testing at the Drug Testing Center and require all clients to pre-pay at the PTS Office or the Family Law Treatment Court. At the time of payment, staff collecting monies from clients should always determine if the client has any outstanding balance due and attempt to collect such amounts since PTS Officers sometimes authorize testing of a PTS client even though they have not prepaid.

b) Discontinue producing hard copy records of positive test results that are then distributed to PTS Officers, since such results are automatically flagged in the POPS computer system and are visible to the supervising PTS Officers.

RESPONSE: Agree

The Department has already transitioned from accepting payments after hours at the Testing Station to requiring that all clients pre-pay at the PTS Office. The Department is also investigating other payment options such as adding a payment link on its website and accepting credit/debit card transactions.

The Department will discard using hard copies of urine testing results April 1st, 2012 with the exception being when they are needed for Court. However, if the Department begins using VMC for lab services, they currently do not have an electronic system for the reporting of results. The Department will work with VMC in the development of electronic reporting system that interfaces with the POPS system.