

File No. 130650

Committee Item No. 4

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Neighborhood Services & Safety Date February 6, 2014

Board of Supervisors Meeting Date \_\_\_\_\_

### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Resolution                                   |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 – Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

### OTHER (Use back side if additional space is needed)

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Completed by: Derek Evans Date 1/31/14  
Completed by: \_\_\_\_\_ Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages.  
The complete document can be found in the file.

1 [Administrative Code - Home Detention and Electronic Monitoring Program]

2  
3 **Ordinance amending the Administrative Code to expand the category of jail inmates**  
4 **eligible for the Home Detention Program; and authorizing the Sheriff to implement an**  
5 **Electronic Monitoring Program to pretrial detainees being held in lieu of bail.**

6 NOTE: Additions are single-underline italics Times New Roman;  
7 deletions are ~~strike-through italics Times New Roman~~.  
8 Board amendment additions are double-underlined;  
9 Board amendment deletions are ~~strikethrough-normal~~.

9 Be it ordained by the People of the City and County of San Francisco:

10 Section 1. Findings.

11 As of 2008, approximately 2.3 million people were behind bars in the United States,  
12 equivalent to about one in every 100 adults. This ratio represents a 300 percent increase in  
13 the prison population from 1980, when half a million Americans were behind bars. With lower-  
14 level offenders accounting for a significant portion of this growth, California spends 10 percent  
15 of its general revenue on prisons compared to 7 percent on its higher education system. The  
16 social cost to minority communities, a large percentage of whose young men are now locked  
17 up, is staggering. According to the Pew Research Center on the States, incarceration  
18 negatively impacts the economic mobility of former inmates. For example, "serving time  
19 reduces hourly wages for men by approximately 11%, annual employment by 9 weeks, and  
20 annual earnings by 40%." Since minority populations disproportionately account for a high  
21 percentage of the prison population, high incarceration rates negatively impact minority  
22 communities. Worse, the impacts of incarcerated parents on children are lasting. "Children  
23 with fathers who have been incarcerated are significantly more likely than other children to be  
24 expelled or suspended from school and family income averaged over the years a father is  
25

1 incarcerated is 22 percent lower than family income was the year before a father is  
2 incarcerated.”

3 By removing low-level offenders from jails and prisons and putting them under house  
4 arrest, local, state and federal governments could dramatically reduce their spending on  
5 incarceration. At the same time it would allow families to remain intact, and allow offenders to  
6 obtain treatment and employment, pay restitution, support their communities as a whole and  
7 reduce their likelihood of reoffending.

8 In April 2011, Governor Brown signed AB109, which made fundamental changes to the  
9 costly, ineffective and unsafe “revolving door” incarceration of low level offenders. AB 109  
10 added California Penal Code Section 1203.018, which permits the Board of Supervisors to  
11 authorize the “correctional administrator”, defined in that statute as the Sheriff, Probation  
12 Officer, or Director of the Department of Corrections, in those counties having such a  
13 department, to allow inmates being held in county jail in lieu of bail to be released on  
14 electronic monitoring after 30 days for those awaiting trial on misdemeanor charges and 60  
15 days for those facing felony charges. The Board of Supervisors, after consulting with the  
16 Sheriff and the District Attorney, may prescribe reasonable rules and regulations under which  
17 an electronic monitoring program authorized by Penal Code Section 1203.018 may operate.

18 Currently there are over 500 low-level offenders in San Francisco County Jails awaiting  
19 trial or disposition. Many of these offenders have the capability to work and support their  
20 families; others are in need of rehabilitation for substance abuse or mental health issues,  
21 which can better be addressed in noncustodial settings – increasing the likelihood of a  
22 successful reentry, lowering the incidence of recidivism, and improving public safety in our  
23 communities.

24 Section 2. The Administrative Code is hereby amended by revising Section 13.63, and  
25 adding section 13.64, to read as follows:

1                   **SEC. 13.63. HOME DETENTION PROGRAM FOR SENTENCED INMATES.**

2                   (a) The Sheriff is authorized to ~~offer~~implement a Home Detention Program as specified  
3 in Section 1203.016 of the California Penal Code, in which ~~minimum security prisoners and low-~~  
4 ~~risk offenders~~ inmates committed to the County Jail or other County correctional facility or  
5 inmates participating in a Work Furlough program may voluntarily participate or involuntarily be  
6 placed in a Home Detention Program during their sentence in lieu of confinement in ~~the~~ a  
7 County Jail or other County correctional facility.

8                   (b) The Sheriff may administer the Home Detention Program authorized in subsection (a)  
9 pursuant to written contracts with one or more appropriate public or private agencies or entities,  
10 subject to the requirements for contracting out these services set forth in Penal Code Section 1203.016  
11 and in accordance with the County laws and policies governing procurement of personal services.

12                   **SEC. 13.64. ELECTRONIC MONITORING PROGRAM IN LIEU OF BAIL.**

13                   (a) The Sheriff is authorized to offer an Electronic Monitoring Program as specified in Section  
14 1203.018 of the California Penal Code, to inmates being held in lieu of bail in a County Jail or other  
15 County correctional facility.


16                   (b) The Sheriff may administer the Electronic Monitoring Program authorized in subsection (a)  
17 pursuant to written contracts with one or more appropriate public or private agencies or entities,  
18 subject to the requirements for contracting out these services set forth in Penal Code Sections 1203.018  
19 and in accordance with the County laws and policies governing procurement of personal services.

20                   Section 3. Effective Date. This ordinance shall become effective 30 days after  
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
23 of Supervisors overrides the Mayor's veto of the ordinance.

24                   Section 4. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
25 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,

1 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
2 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
3 additions, and Board amendment deletions in accordance with the "Note" that appears under  
4 the official title of the ordinance.

5 APPROVED AS TO FORM:  
6 DENNIS J. HERRERA, City Attorney

7 By:   
8 JANA CLARK  
9 Deputy City Attorney

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## LEGISLATIVE DIGEST

[Administrative Code - Home Detention and Electronic Monitoring Program]

**Ordinance amending the Administrative Code to expand the category of jail inmates eligible for the Home Detention Program; and authorizing the Sheriff to offer an Electronic Monitoring Program to pretrial detainees being held in lieu of bail.**

### Existing Law

Local law authorizes the Sheriff to operate a "Home Detention Program" for inmates sentenced to county jail or participating in the Work Furlough program as specified in California Penal Code Section 1203.016, subject to the inmate's consent to the program's conditions. Participation is limited to minimum security and low risk offenders. Section 1203.016 requires that all inmates participating must submit to electronic monitoring.

### Amendments to Current Law

For sentenced inmates and those on work furlough, the ordinance would remove the consent requirement and the requirement that participants be minimum security and low risk offenders.

For pretrial detainees being held in lieu of bail, the ordinance would authorize the Sheriff to operate an "Electronic Monitoring Program," as permitted under Penal Code Section 1203.018, for release of such detainees. To participate, detainees would need to consent to the program's conditions.

### Background Information

With approval from the Board of Supervisors, state law permits the Sheriff to release inmates on electronic monitoring in lieu of holding them in jail. Until recently, state law limited participation in this "Home Detention Program" to sentenced inmates who consented to participate and who were "minimum security and low risk offenders." In the event of jail overcrowding state law permitted eligibility to be expanded to any misdemeanor inmate, whether participating voluntarily or not.

Effective October 2011, "Realignment" legislation (1) removed these limitations on participation for inmates serving time in jail or in the Work Furlough Program and (2) provided that with Board of Supervisors approval, Sheriffs can release pretrial detainees being held in lieu of bail if they consent to participate in an Electronic Monitoring Program.<sup>1</sup>

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<sup>1</sup> State law authorizes these programs for sentenced inmates and pretrial detainees in separate statutes. The program for sentenced inmates is referred to as a "Home Detention Program" with electronic monitoring being one of the mandated conditions. California Penal

FILE NO. 130650

State law requires participants in either program to: (1) remain inside their residence during the hours designated by the Sheriff; (2) allow persons designated by the Sheriff into the residence to verify compliance; and (3) submit to electronic monitoring. If participants violate the conditions or the electronic monitoring equipment malfunctions, the Sheriff may immediately take them back into custody.

In addition, to be released on electronic monitoring in lieu of bail, a pretrial detainee must (1) have no holds or outstanding warrants and (2) either (a) have been in custody for 30 days since arraignment on misdemeanor charges, or 60 days since arraignment on felony charges, or (b) have been determined by the Sheriff to be appropriate for the program because the detainee's participation would be consistent with public safety. The Sheriff is not required to place any inmate in the program who has not satisfactorily complied with rules and regulations while in custody.

In addition to state law requirements for participation, the Board of Supervisors may adopt reasonable rules and regulations for operation of the programs, and may prescribe an administrative fee for participation. The Sheriff may also adopt administrative rules for program participation.

With Board approval, the Sheriff may administer the programs pursuant to written contracts with appropriate public or private agencies.

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Code § 1203.016. The program for pretrial detainees is referred to as an "Electronic Monitoring Program". Penal Code § 1203.018

**Lamug, Joy**

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**From:** Gorwood, Kathy  
**Sent:** Tuesday, December 10, 2013 11:43 AM  
**To:** BOS Legislation  
**Subject:** Substitute Electronic Monitoring Ordinance  
**Attachments:** 00890102.doc; 00890153.doc

Good Morning,

Please see the attached electronic copies of substitute legislation for file number 130650 – which was previously submitted on June 17, 2013. The original and two copies of this legislation were hand delivered to the Clerk's Office just a few minutes ago.

If you need any additional information, please let me know.

Regards,  
Kathy

Chief Deputy Kathy Gorwood, #1319  
SFSD - Administration  
415-554-7225



130650

**Evans, Derek**

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**From:** Christine.Fountain@sfgov.org  
**Sent:** Tuesday, July 09, 2013 4:23 PM  
**To:** Evans, Derek  
**Subject:** Fw: Re: Fw: Referral: Administrative Code - Home Detention Program and Electronic Monitoring Program

Derek,

The SFPD does not have any concerns with this change unless there is a rise in Part II crimes.

Christine Fountain  
San Francisco Police Department  
Office of the Chief of Police  
850 Bryant Street, Room 525  
San Francisco CA 94103  
Tel: (415) 734-3633  
Fax: (415) 553-1554  
Email: [christine.fountain@sfgov.org](mailto:christine.fountain@sfgov.org)

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-----Forwarded by Christine Fountain/SFPD/SFGOV on 07/09/2013 04:17PM -----

To: Christine Fountain/SFPD/SFGOV@SFGOV  
From: Danielle Newman/SFPD/SFGOV  
Date: 07/05/2013 12:07PM  
Subject: Re: Fw: Referral: Administrative Code - Home Detention Program and Electronic Monitoring Program

Hi Chris,

DC T says this will have no impact on us unless part II crimes go up.

Sgt. Danielle Newman  
Office of the Chief of Staff  
San Francisco Police Department  
850 Bryant Street  
San Francisco, CA 94103  
Phone 415-553-1551

-----Christine Fountain/SFPD/SFGOV wrote: -----

To: Danielle Newman/SFPD/SFGOV  
From: Christine Fountain/SFPD/SFGOV  
Date: 07/02/2013 04:04PM  
Subject: Fw: Referral: Administrative Code - Home Detention Program and Electronic Monitoring Program

Can you ask DC T who should review this for any concerns on our part? Thx

**From:** "Evans, Derek" [derek.evans@sfgov.org]  
**Sent:** 07/02/2013 10:52 PM GMT  
**To:** Chief Suhr  
**Cc:** Ross Mirkarimi; Christine Fountain; John Monroe  
**Subject:** Referral: Administrative Code - Home Detention Program and Electronic Monitoring Program

Good Afternoon,

Attached is a copy of legislation (File No. 130650) for your review. This legislation is being referred to your department for informational purposes.

**File No. 130650**

Ordinance amending the Administrative Code to expand the category of jail inmates eligible for the Home Detention Program; and authorize the Sheriff to offer a voluntary Electronic Monitoring Program to pretrial detainees being held in lieu of bail.

Regards,

**Derek K. Evans**  
**Assistant Committee Clerk**  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244  
San Francisco, CA 94102  
Phone: (415) 554-7702 | Fax: (415) 554-5163  
[derek.evans@sfgov.org](mailto:derek.evans@sfgov.org) | [www.sfbos.org](http://www.sfbos.org)

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below.  
<http://www.sfbos.org/index.aspx?page=104>

[attachment "130650\_referral.pdf" removed by Danielle Newman/SFPD/SFGOV]

# City and County of San Francisco

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## OFFICE OF THE SHERIFF

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**Ross Mirkarimi**  
**SHERIFF**

**(415) 554-7225**

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June 17, 2013

Reference: AdminCD 2013-020

Angela Calvillo, Clerk of the Board  
Board of Supervisors  
City Hall, Room 244  
San Francisco, CA 94102

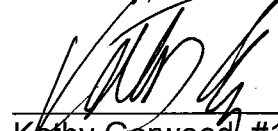
Dear Ms. Calvillo,

I am submitting this request on behalf of Sheriff Ross Mirkarimi. Attached please find an original and two copies of a proposed ordinance for the Board of Supervisors approval which seeks to amend Administrative Code § 13.63. Current law, CA Penal Code § 1203.016, authorizes the sheriff to operate a home detention program for sentenced inmates; however, the inmates must be minimum and low risk offenders and must consent to the program.

As authorized by law and with the approval from the Board of Supervisors, this proposed ordinance would remove the consent and low risk offender requirement from sentenced inmates. Additionally, this ordinance will authorize the sheriff to use electronic monitoring capabilities as permitted in CA Penal Code § 1203.018.

If you have any questions relative to his request, please do not hesitate to contact me at (415) 554-7223. Thank you in advance for your consideration in this matter.

Sincerely,

  
\_\_\_\_\_  
Kathy Gorwood, #1319  
Chief Deputy

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2013 JUN 17 AM 11:00



BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Rm 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Chief Greg Suhr, Police Department  
FROM: Derek Evans, Assistant Committee Clerk  
DATE: July 2, 2013  
SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors Neighborhood Services and Safety Committee has received the following legislation, which is being referred to your department for informational purposes.

**File No. 130650**

Ordinance amending the Administrative Code to expand the category of jail inmates eligible for the Home Detention Program; and authorize the Sheriff to offer a voluntary Electronic Monitoring Program to pretrial detainees being held in lieu of bail

Please submit any comments or reports to the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Sheriff Ross Mirkarimi