

CONTINUOUS ELECTRONIC MONITORING WITH GPS

- AUTHORITY:** California Penal Code Sections §1210.7 through §1210.16;
California Penal Code Sections §1202.8(b) pursuant to Penal Code Sections §290.04 to 290.06;
California Penal Code Section 3454(b);
California Penal Code Section §13012.4;
California Welfare and Institutions Code §628.2
Orange County Juvenile Court
- RESCINDS:** Procedure Manual Item 2-1-017, **dated 01/28/22**
- FORMS:** Terms and Conditions for Continuous Electronic Monitoring Supervision via Global Positioning System (GPS) (F057-3210.1)
(Additional forms available in Spanish and Vietnamese)
CEM Request (Attachment)
CEM Admonishment and Referral (Attachment)
Notice of CEM Violation (Attachment)
- PURPOSE:** To establish guidelines and procedures for the use of Continuous Electronic Monitoring (CEM) via GPS for the purposes of enhanced supervision and in compliance with California state mandate (PC 1202.8).

I. GENERAL INFORMATION

Adult and juvenile offenders on supervision may be placed on Continuous Electronic Monitoring (CEM) via Global Positioning System (GPS) to ensure compliance with legislative mandates, enhance supervision and/or provide administrative sanctions. CEM is an effective tool for supervising offenders, who are likely to re-offend, where prevention and knowledge of their whereabouts is a high priority for maintaining public safety.

GPS is monitored 24/7 through the Orange County Probation Department's Continuous Electric Monitoring Center, referred to as the GPS Monitoring Center (GPS MC). Due to identified benefits involving the enhanced supervision and investigative information associated with GPS operations, the GPS MC was created to assist deputy probation officers (DPOs) in the electronic monitoring of the whereabouts of offenders placed on GPS. The GPS MC receives and analyzes GPS information against supervision requirements, triages, prioritizes responses, and reports alert information and violations to assigned probation officers for further decision and action based on case dynamics.

Prior to placing an individual on GPS, staff should ensure there is a court order, legal mandate and/or provision to place someone on GPS.

- A. Per Penal Code (PC) Section §1210.7(a): A county probation department may utilize continuous electronic monitoring to monitor the whereabouts of persons on probation. In *People v. Cruz* (2011) 197 Cal. App, 4th 1306, Cal. Rptr 3d the trial court opined that section 1210.7 only authorized probation to recommend GPS monitoring to the court.

- B. Per PC §1202.8(b): Commencing January 1, 2009, every person who has been assessed with the State Authorized Risk Assessment Tool (STATIC 99) for Sex Offenders pursuant to Sections 290.04 to 290.06 PC, inclusive, and who has a SARATSO risk level of high, shall be continuously, electronically monitored while on probation, unless the court determines that such monitoring is unnecessary for a particular person. The monitoring device used for these purposes shall be identified as one that employs the latest available proven effective monitoring technology.
- C. Per PC §1210.12: (a) A county chief probation officer shall have the sole discretion, *consistent with the terms and conditions of probation*, to decide which persons shall be supervised using continuous electronic monitoring administered by the county probation department.
- D. Per PC §3454(b): Each county agency responsible for post release supervision, as established by the county board of supervisors pursuant to subdivision (a) of Section 3451, may determine additional appropriate conditions of supervision in Section 3453 consistent with public safety, including the use of continuous electronic monitoring as defined in Section 1210.7, order the provisions of appropriate rehabilitation and treatment services, determine appropriate incentives and determine and order appropriate response to alleged violations, which can include, but shall not be limited to, immediate, structured and intermediate sanctions up to and including referral to the reentry court pursuant to Section 3015, or flash incarceration in a county jail.
- E. **Per WIC §628.2: Entitles a youth to have one (1) day credited against their maximum term of confinement for each day, or fraction thereof, that the youth serves on electronic monitoring. Further, if electronic monitoring is imposed for a period of greater than thirty (30) days, the court is required to hold a hearing every thirty (30) days to ensure that the youth does not remain on electronic monitoring for an unreasonable length of time. The bill would also prohibit electronic monitoring devices from being used to converse with a youth or to eavesdrop or record any conversation.**
- F. Both the Orange County Juvenile Court and the Appellate Court have concluded that continuous electronic monitoring does not constitute physical confinement. Further, it was concluded that GPS monitoring is expressly authorized by statute for adult probation, a fortiori the condition is permissible for juvenile probation since broader conditions may be imposed on juveniles.

II. PROCEDURE

- A. The role of the GPS Technician (Tech)

The GPS Tech assists DPOs in the supervision of offenders by utilizing active monitoring and near real-time tracking of offenders. GPS Techs utilize continuous electronic monitoring software through the Orange County Probation Department's contracted vendor. Following established protocols set by the Probation Department, the GPS Tech will:

1. Receive, triage, investigate, resolve and document all GPS alerts following the Probation Department protocols, ensuring that critical alerts are

addressed in order of priority, but no later than 24 hours of notification of the alert.

2. Notify DPOs, SPOs, Police or Sheriff as required of all critical alerts and submit Monitored Event Reports (MER) as indicated by protocol.
3. Create profiles, zones, curfews, and perform installations on youth released on the Accountability Commitment Program (ACP), Pre-Detention & Pre-Disposition Program (PPP) or per court order.
4. Upon initial installation, PM shift staff will call enrollees to confirm address and location and document the action in ICMS.
5. Conduct Crime Scene Correlation (CSC) per local law enforcement request and/or internal request.
6. Provide DPOs who are conducting home calls, sweeps and other field related activities with near real time tracking updates for offenders.
7. On a nightly basis, randomly review tracks of high-risk sex offenders and other high-risk offenders as assigned.
8. Assign/Unassign enrollees.
9. Create and/or edit zones and new global zones.
10. As time permits, GPS Techs will assist field DPOs in creating initial profiles, reviewing GPS tracks, create/modify schedules, assist with field installations of GPS devices, and assist with GPS training.
11. Coordinate with the GPS Clerks to maintain appropriate GPS inventory levels. Report and return faulty equipment to the vendor in a timely manner while maintaining chain of custody for court-related matters.
12. Brief incoming staff of any pending issues or safety concerns (e.g. universal precaution issues, etc.).
13. Keep the GPS Supervisor informed about any unusual circumstances involving GPS installations or impacting the overall operation of the MC.

B. Role of Deputy Probation Officer (DPO)

1. The DPO shall review each case based on type of case (adult/juvenile supervision, sex offender, domestic violence, gang, AB109, high control, etc), and determine if GPS is an appropriate tool for supervision and enroll as appropriate as follows:
 - a. Review risk factors and ongoing case dynamics (e.g., resistive to supervision, verify residence or monitor compliance with supervision conditions, violent, truant, substance abuse, court order, state mandate for GPS-High Risk Sex Offenders with a Static 99R score of 6 or more), to determine suitability for GPS.

- b. Complete the CEM Request form and staff case with SPO. Once approved, indoctrinate to CEM/GPS terms and conditions and provide a copy to the offender.
- c. In Veritracks, create a profile for the offender under the enrollee tile, completing all pertinent information including the offender's current address, telephone number (both house and cell); include all pertinent info that will assist in monitoring the offender.
- d. Select the Risk Level (low risk: Adult Level 1, Juvenile Level 1, high risk: Adult Level 2, Juvenile Level 2), to establish the level of GPS supervision being applied.
 - (1) Level 1: all regular adult and juvenile caseloads that are using GPS as an enhanced supervision tool. After-hours notifications regarding bracelet strap alerts will be made to the DPO's desk number and a report will be sent to the DPO's email with a cc (copy) to the supervising probation officer (SPO) as is the current practice. On weekends, notification will be done on the DPO's desk phone and cell phone.
 - (2) Level 2: All adult and juvenile sex offenders, PCS or other high-risk supervised individuals who are mandated to be on GPS or in need of enhanced supervision. If there is a bracelet cut after hours or in the middle of the night, MC staff will attempt to contact the assigned DPO and proceed up the chain of command until someone is contacted.
- e. Set applicable zone perimeters (exclusion zones, inclusion zones and curfews) for each offender to be monitored. Any person placed on GPS without an established monitoring criteria will be removed from the program.
- f. Install the GPS device on the offender
 - (1) DPO will install the device on the offender's left ankle, unless a verifiable reason exists to place it on the right ankle, and activate the GPS tag ensuring that GPS points are obtained before the offender leaves the area office

OR

- (2) Contact the GPS Monitoring Center (714-935-6281) and request an appointment for install. *This is a law enforcement / Probation number only. Do not release to supervised individuals or their family.* The DPO must additionally complete the GPS Admonishment form and either fax it to the number provided by the MC staff or email it to Prob-GPSMonitoringCenter@prob.ocgov.com

- g. If sending the offender to the GPS MC for install, provide the offender a copy of the admonishment form with the address to the Manchester Office Building (MOB) 4th floor. Instruct the offender to carry a valid ID to the appointment.
 - h. Take appropriate action, based on case dynamics, if the offender fails to report for the scheduled appointment.
- 2. DPOs shall review the tracks of those on their caseload, regardless of whether or not an alert was received. Tracks should be reviewed on a regular and frequent basis as determined needed, based on the purpose for GPS tracking. Tracks should minimally be reviewed weekly or as authorized by the unit SPO.
- 3. In the event of a planned vacation or absence, the DPO shall temporarily reassign GPS supervision to another DPO within their unit/division.
- 4. DPOs will receive a variety of reports on their offenders associated with GPS supervision. DPOs are expected to review and act on reported information in a timely and appropriate manner based on the circumstances of the alert as outlined below:
 - a. A Monitored Event Report (MER) is a report issued by a GPS Tech and outlines the specific actions taken or needed specific to an alert. DPOs will review MERs daily and take appropriate action as soon as possible, but no later than 24 hours or the next business day following a weekend or holiday. Critical alerts will be considered a priority.
 - b. An Event Notification Report (ENR) is a report generated by the GPS vendor which summarizes all alerts generated on a DPO's caseload within a specified timeframe. DPOs will review ENRs daily.
- 5. Critical alerts include: Master Tamper, Critical Battery, Message Gap, and Exclusion Zone. Due to the serious nature of critical alerts, the GPS MC follows established protocols, often requiring a DPO's direct interaction and direction. If contacted by the GPS MC regarding a critical alert, DPOs will respond to the GPS MC as soon as possible and provide clear directives as to the plan of action.
- 6. When addressing a critical alert, understanding community safety is the highest priority, depending on case dynamics, time of day/night, available resources and risk to the community, a DPO may respond at the officer's discretion in the following manner:
 - a. Log onto the CEM website or contact the GPS MC and verify location of probationer/offender.
 - b. Attempt to contact supervised offender via CEM device and/or alternative phone numbers.

- c. If contact is made with the supervised offender, consider the following:
 - (1) If unable to contact the probationer after multiple attempts, respond to the probationer's location if appropriate (i.e. during work hours) as identified on the website. As needed, if the GPS device is no longer providing tracks, go to the last known location.
 - (2) At the DPO's discretion, a DPO may contact local law enforcement prior to response to advise or request law enforcement respond, keeping victim and community safety at the forefront of decision making.
 - (3) Exclusion Zone: The offender is in a location they have been directed to avoid. Direct the offender to leave the area immediately, personally respond to the location, and/or contact law enforcement to respond to the location to detain or arrest as appropriate.
 - (4) Master Tamper, Shield or Jamming: the offender may be trying to hinder or remove tracking abilities. Direct the offender to provide an explanation and report to the probation area office or MC as directed. A DPO may also personally respond to the location, and/or contact law enforcement to respond to the location to detain or arrest as appropriate.
 - (5) Critical/Dead Battery: The offender's battery is about to die, preventing future tracking. Direct the offender to immediately charge the battery. If the battery dies, the DPO may need to personally respond to the location, and/or contact law enforcement to respond to the location to detain or arrest as appropriate.
 - (6) Notify SPO of any action taken above and document in the Integrated Case Management System (ICMS) via Electronic Contact Reporting (ECR).
- 7. The DPO's level of response depends on the DPO's knowledge of case dynamics, knowledge of the probationer, time, location, proximity to victim and/or risk to the community. In the case of a Master Tamper, if the probationer is present and there are no signs of tamper, document in ICMS.
 - a. If tamper alerts continue, but there are no visible signs of tamper, arrange to have equipment replaced as it may be an indication of wear and tear, faulty equipment, improper installation, etc.
 - b. If the probationer is not located, contact family members, work or any other affiliates in an attempt to locate.
 - c. Contact local law enforcement, as appropriate, when all other efforts to locate the probationer have been exhausted.

- d. If any equipment is recovered, preserve for evidentiary purposes as needed.
 - e. Expedite warrant and document in ICMS.
8. Non-critical Alerts include Low Battery, Inclusion Zone, and No GPS. Per protocol, the MC will investigate and contact the enrollee and send a MER at the end of the shift or at the conclusion of the protocols.
- a. All alerts must be addressed by the DPO or the DPO's designee as soon as possible, but not less than 24 hours of the notification or the next business day following a weekend or holiday.
9. The DPO should regularly, physically inspect equipment during office visits, home calls, field contacts, etc., for visible signs of damage, tamper, and injury. Issues may arise as a result of prolonged use of the equipment or natural wear and tear. If an issue is identified:
- a. Document issues and circumstances in ICMS.
 - b. Coordinate replacement of equipment if needed.
 - c. Visible signs of deliberate tampering or removal may result in arrest:
 - (1) Remove CEM equipment as demonstrated in training, i.e. use safety scissors. This is to address proper removal with medical scissors as opposed to some other tool, photograph and preserve equipment for evidentiary purposes and place in evidence locker.
 - (2) Unenroll the probationer on the vendor website, notify CEM coordinator of arrest/removal and that the equipment is being retained.
 - (3) Retain CEM equipment in evidence until the probation violation is resolved.
 - (4) Return CEM equipment to CEM coordinator if necessary once the probation violation is resolved.
 - d. Review case dynamics every 180 days, or less as directed by SPO, to determine suitability of GPS and document review date with comments on the CEM request form, and forward electronically to SPO for review.
 - e. DPOs are responsible for retrieving all devices. If a device is cut off by the offender, the DPO should make all reasonable attempts to locate and retrieve the device within the field while the device is still sending tracks. DPOs are also responsible to obtain equipment removed by OCJ, local city jails, returned by citizen, police facilities, or other circumstances. All retrieved equipment is to be returned to the GPS Clerks at Juvenile Hall within 5 days.

10. GPS may be removed if the offender meets several factors including but not limited to: program completion, no probation violations, no significant or ongoing CEM violation, appropriate progress or completion of treatment, truthful polygraphs, medical procedure or satisfactory compliance.
 - a. An offender may have his/her GPS device temporarily removed for the following reasons:
 - (1) Court order
 - (2) DPO discretion due to unforeseen circumstances or emergency.
 - b. Upon review and SPO approval of exceptions, CEM equipment will be removed at the latest possible opportunity for planned medical procedures or travel (if necessary) and placed back on the supervised individual as soon as possible. Offender to be notified that CEM equipment will be immediately reattached upon completion of event or return and may be required to comply with additional or specified supervision conditions specific to case supervision dynamics (i.e. polygraph for sex offenders).

C. Role of the Supervising Probation Officer (SPO)

It is the responsibility of the SPO to ensure that their probation officers receive the proper GPS training before using GPS as a supervision tool. Any training provided shall be documented by the direct SPO and the SPO of the training unit as to the names of staff receiving training, date of training and number of hours of instruction. The Training SPO shall maintain the information in the training record.

1. The SPO will review CEM requests submitted by the DPO and determine GPS suitability and staff case with the DPO if necessary.
2. Electronically return the CEM request with approval
3. Review case dynamics every 180 days, or less as determined by unit SPO, to determine suitability of GPS and document review date with comments on the CEM Request Form.
4. SPOs shall review on a frequent basis, the GPS Notification Event Reports to ensure DPOs are addressing critical alerts within 24 hours. In the event of an emergency, the SPO shall temporarily reassign GPS supervision to another DPO within their supervision responsibilities.
5. Ensure DPOs are properly following and adhering to GPS related procedures and practices, and as appropriate, address, document and correct inconsistent or inappropriate actions, or lack thereof, involving GPS operations and procedures.

REFERENCES:

General Information: In re Lorenzo L. (2008) 163 Cal. App. 4th 1076, Cal. Rptr., 3rd
In re R.V. (2009) Cal. App. 4th
In re Antonio R., supra, 78 Cal. App. 4th 937

Procedures: 2-3-018 Adult Probationer Travel

Attachments

R. Munoz/S. McCoy

APPROVED BY:



Orange County Probation Department Continuous Electronic Monitoring Request

Probationer Name: _____ DOB: _____ A#: _____

Current Offense: _____ Arrest History: _____

Court Case: _____ Date of CEM request: _____

☐ Sex Offender ☐ Domestic Violence ☐ Gang Violence ☐ High Control ☐ Other

RISK FACTORS

- ☐ Prior number of Probation Violations ____ Parole Violations ____
- ☐ Resistive to supervision ☐ Failed / Deceptive Polygraphs
- ☐ Predatory conduct/potential harm to victim(s) or others
- ☐ Transient ☐ Living in vehicle
- ☐ Out of county travel/employment ☐ History of violence
- ☐ Personality disorder with anger, impulsivity, or behavior instability
- ☐ History of weapons ☐ Subject to gang injunction

CEM WILL BE BENEFICIAL IN MONITORING THE FOLLOWING:

- ☐ Court ordered Terms and Conditions ☐ Instructions to Adult Probation
- ☐ Sex offender terms and conditions ☐ Identified inclusion / exclusion zones
- ☐ Court ordered gang terms ☐ Specific prohibited activities
- ☐ Protective orders ☐ Verification of social/treatment activities

Officer: _____ Date: _____

DPO Comments: _____

SPO Review: _____ Approved: Yes ☐ / No ☐ Date: _____

SPO Comments: _____

90 Day Case Review for CEM

90 Day Review _____ DPO Comments: _____

180 Day Review _____ DPO Comments: _____

270 Day Review _____ DPO Comments: _____

365 Day Review _____ DPO Comments: _____

90 Day SPO Review: _____ Approved: Yes ☐ / No ☐

180 Day SPO Review: _____ Approved: Yes ☐ / No ☐

270 Day SPO Review: _____ Approved: Yes ☐ / No ☐

365 Day SPO Review: _____ Approved: Yes ☐ / No ☐

Date removed from CEM supervision: _____ SPO approving: _____

Successfully complied with terms and conditions while on CEM? Yes ☐ / No ☐

Formal Violations: _____

Minor Violations of rules, but no formal violation: _____



Orange County Probation Department
Continuous Electronic Monitoring (CEM)
Admonishment and Referral

Name: (Last Name, First) _____ Date: (MM/DD/YYYY) _____

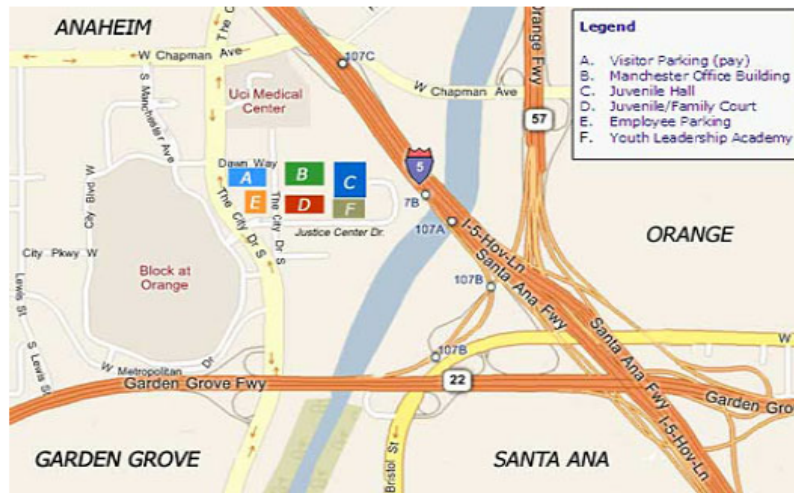
DOB: (MM/DD/YYYY) _____ Court Case #: _____ A/L#: _____ (Probation use only)

Appointment Date and Time: _____

Indoctrination completed by: _____

This is written notification advising you that as a condition of your probation, you are hereby ordered to submit to continuous electronic monitoring. Please report with this form and valid picture identification to:

Manchester Office Building
301 The City Drive 4th Floor- Orange, CA 92868 (714) 935-7411



Failure to appear for your designated appointment is a violation of your probation. I have received a copy of this directive and understand I must comply with the probation orders set forth therein.

Probationer Name (Print) _____ Probationer Signature _____ Date _____

Probation Officer (Print) _____ Probation Officer Signature _____ Date _____

The above named probationer has been successfully placed on CEM. At the time of installation, the equipment is functioning and operational. GPS Tag # _____ BLU BOX # _____ BLU HOME# _____

Probation Employee (Print) _____ Probation Employee Signature _____ Date _____

**ORANGE COUNTY PROBATION DEPARTMENT
NOTICE OF CONTINUOUS ELECTRONIC MONITORING VIOLATION**

Probationer Name: _____

A#L#: _____

I acknowledge that I am on Continuous Electronic Monitoring (CEM) with GPS. I acknowledge that a copy of the Terms and Conditions for this monitoring were given and explained to me. I signed these Terms and Conditions indicating I understand the Terms and Conditions and would comply with them. I acknowledge that I have failed to comply with these Terms and Conditions on _____.

_____ 1. I acknowledge that I tampered with or removed the CEM equipment, and failed to report it immediately to my assigned Probation Officer or designee.

_____ 2. I acknowledge that I damaged, destroyed, or lost the CEM equipment.

_____ 3. I failed to maintain the battery charge of the CEM equipment as required at all times.

_____ 4. I failed to respond to an alert from the CEM equipment by _____.

_____ 5. I acknowledge that I entered into an exclusionary zone and failed to leave immediately.

_____ 1. See Attached (Amusement Park Exclusion Zones)

_____ 2. _____

_____ 3. _____

_____ 6. Other conditions:

Probationer Signature: _____ Date: _____

DPO Signature: _____ Print Name: _____