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HOME CONFINEMENT PROGRAM

(OCTOBER 1, 1985 - MARCH 31, 1986)

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MONROE COUNTY PROBATION DEPARTMENT

HOUSE ARREST

HOME CONFINEMENT PROPOSAL

An Enhancement to Intensive Supervision

PHILOSOPHY

Current methods in IPSP/ISP attempt to screen cases to avoid inappropriate incarceration. The guarantee of Level I supervision and specific probation plans have allowed maximum use of casework abilities within the department to supervise high risk offenders in a community setting. However, there are some offenders who are not necessarily high risk, but due to the nature of the crime, need some obvious (to the public) form of punishment. In some instances the imposition of intensive supervision has been enough to satisfy the Court's conception of a just punishment. In other cases this is not quite enough, and incarceration is imposed. We believe that by increasing the availability of obviously punitive conditions of probation, there is a definite population which might benefit. While fines, restitution and community service are used appropriately in this manner, further impact might be made by confining probationers to their residence for significant amounts of time. We have experimented on a limited basis with house confinement as a condition of probation in order to assess its feasibility. Since monitoring each case is so much more time consuming and the concept so new, we have been unable to fully develop a program. However, the few cases we have supervised to date have provided valuable information for future development and a sound

basis for a formal program.

OBJECTIVES

(1) Offer a more punitive sentencing option to traditional Level I supervision to be used as an alternative to incarceration.

This method will be used exclusively as punishment and not as a control for high risk offenders.

(2) Produce documentation and evaluation of the process (both implementation and ongoing service) in order to replicate program in other counties.

PROGRAM

ADMINISTRATIVE REQUIREMENTS

1. Home confinement will be a special condition of probation.

2. All cases will be alternatives to either jail or prison, using selection methods current in IPSP or ISP.

3. While probationer is under home confinement, case will be serviced by the special home confinement team, but will be monitored by an assigned "case manager" in either the IPSP or ISP team.

4. When home confinement portion of probation sentence is

completed, the "case manager" will assume duties for direct service of case.

5. This option will initially be offered to a limited number of courts in order to facilitate implementation. This will also allow more in depth interaction between those courts, police agencies and the probation department.

SPECIFIC CASE REQUIREMENTS

1. Burden of compliance will be on defendant, with random monitoring by department.
2. Conditions of probation regarding curfew times and exceptions will be as detailed as possible.
3. Probationer must have a telephone.

CASEWORK METHODS

1. Random telephone calls.
2. Unannounced home visits.
3. Collateral contacts - police, other agencies.

PERSONNEL

This program will require one probation officer and one clerk to act as a team. Initial caseload size would be a maximum 20 cases. With the assumption that house confinement would last 3 to 6 months, cases would then be supervised totally by IPSP or ISP units. Therefore, over the course of a year, one officer would potentially handle 40 to 80 cases.

The clerk would assist the probation officer in monitoring cases

- 1. By making random telephone calls throughout day.
- 2. Entering all case contact data into record
- 3. Maintain routine written correspondence with collateral agencies.
- 4. Maintain written liaison with IPSP or ISP units.

The clerk would also assist in the overall project by

- 1. Maintaining data files for research purposes
(re: probationer, instant offense, police, court)
- 2. Calculate alternative jail or prison time saved.
- 3. Assist in development of manual.

The department will provide "in-kind" service through the supervision of the project by a probation supervisor, analysis of the data through the Research and Planning unit and supervision probationers after they have completed the house confinement portion of their sentence by probation officers already on staff (Assumption: these cases would not have come on probation if it were not for this program).

EVALUATION

Evaluation of this project will follow the same methods currently utilized in the IPSP unit.

Home Confinement Program

In addition to the terms, conditions, policies and limitations set forth in this contract, funds are conditional upon and subject to compliance with the following:

Goals

The parties acknowledge the following program goals:

1. Develop a new sentencing option - probation home confinement - which can be used in lieu of incarceration for selected offenders and which will be consistent with both the needs of the community and the interests of justice; and
2. Utilize the home confinement program as an alternative to incarceration for selected jail-bound offenders for whom a period of probation home confinement will serve to either substitute for a jail sentence or reduce what would otherwise have been a lengthier jail sentence.

Objectives

The County of Monroe agrees to meet the following objectives in furtherance of an alternative to incarceration state initiative. The objectives specifically state the program shall:

1. Screen over the contract period a minimum of 120 offenders whose convictions would otherwise result in a jail sentence of from 60 days to one year (including such terms as part of "shock probation"), to determine eligibility for placement in the Home Confinement Program of the Monroe County Probation Department. Such sentences may include a period of incarceration to be followed by home confinement provided that the Home Confinement component serves to reduce what would otherwise have been a lengthier jail sentence;

Objectives (continued)

2. Accept into the program over the contract period a minimum of 40 offenders sentenced to Probation Home Confinement, whose period of home confinement will equal the jail time for which home confinement is a substitute except that in selected cases, offenders facing longer sentences may also be considered for program participation;
3. Build to and maintain an active caseload of 20 probationers under home confinement at any one time;
4. Provide case surveillance seven days per week with a minimum of 3 daily contacts. Such contacts will consist of unscheduled, unannounced home visits, randomly placed telephone calls, etc.
5. Develop a procedures manual that will include case selection criteria, staff service delivery and reporting procedures;
6. Promote the home confinement option through formal presentation to judges, assistant district attorneys and defense attorneys;
7. Maintain records on the number of persons for whom Home Confinement is recommended vs. the number for whom it is imposed; and
8. Ensure program integrity through dialogue with judges prior to sentencing concerning case recommendations, and by promptly returning to court any violators of special orders of home confinement.

MONROE COUNTY PROBATION DEPARTMENT

GUIDELINES FOR HOME CONFINEMENT CASES

PHILOSOPHY

Home confinement is designed as a punitive sanction to be used in lieu of all or part of a sentence of incarceration in certain select cases. It is specifically a curfew set by the court as a condition of probation and will be treated in a manner similar to other conditions. As in all probation cases, the onus is on the probationer to comply with the rules of probation. Violations of probation will be filed per the normal policy of the department. The program is DEFINITELY NOT designed as a substitute for incapacitation in the jail for high risk cases.

SERVICES PROVIDED

SPECIFIC SERVICE OF THE CURFEW CONDITION

The Probation Department will monitor all cases designated as home confinement on a seven day a week basis, minimally consisting of:

1. Daily home visit by home confinement officer at random, unannounced times.
2. Two telephone calls daily by unit clerk at random, unannounced times.

IN ADDITION

1. The local police department, or zone will be alerted that a home confinement officer will be visiting at a particular house each day during the period of home confinement. Also, Should a probationer be away from his home during a curfew period and be observed by the police, a field information report will be filed. This report will serve as one basis for a violation of probation.
2. If probationer is working or is involved in a rehabilitation program during the day, attendance will be checked. *

* We will be asking the cooperation of employers to verify attendance in a manner similar to that used in the jail work release program.

* Permission slips for any rehabilitation program will be obtained and attendance reviewed.

GENERAL CASE SERVICE

Each case will be assigned to the caseload of an officer in one of the two intensive supervision units. This officer will be the case manager and will be responsible for all casework aspects. After the period of home confinement, this officer will have continued responsibility for the case.

CRITERIA FOR HOME CONFINEMENT

In each case where home confinement is to be imposed, the Court is asked to

1. Contact the Probation Department regarding the availability of a space in the program. If this is not done, the department will not guarantee that the case will be serviced as described above.
2. Indicate in writing that intensive supervision has been first considered as an alternative and has been rejected as an insufficient sanction.
3. Indicate in writing what the alternative jail sentence would have been. **

NECESSARY CONDITIONS OF PROBATION TO BE IMPOSED:

1. Probationer must have a telephone.
2. Start and end date of home confinement must be stated. *
3. Hours of the curfew must be specific.
4. Exceptions to the curfew must be specifically noted. (Due to the extreme administrative difficulties that exceptions provide, we discourage their use.)

CASE WHERE HOME CONFINEMENT IS NOT INDICATED

The following are types of cases where the Probation Department would not recommend the home confinement option:

1. Probationer has history of extensive or severe domestic violence.
2. Probationer has a current, severe drug or alcohol problem. (a residential treatment facility would be more appropriate)
3. Probationer poses a high risk to the public safety which only incapacitation would control.

**SUGGESTED LENGTH OF TIME FOR HOME CONFINEMENT CONDITION

We suggest that the length of the home confinement condition be similar to that which would have been imposed as jail in a shock probation case. Generally, this would be from three to six months. Our contractual guidelines discourage a condition in excess of six months.

The Court is also reminded that these cases will be continued in an intensive supervision unit upon completion of home confinement. This in itself constitutes increased sanctions from the court, and should be considered in the overall determination of an appropriate length of home confinement time.

HOME CONFINEMENT PROGRAM

QUARTERLY REPORT
10/1/85 to 12/31/85

Although contract funding to Monroe County began on July 1, 1985, this component was not scheduled to begin until October 1, 1985. Therefore, this report covers the initial three month period of the project.

STAFFING

New staff were hired on October 1, 1985. These consisted of one full time Probation Officer, one full time Clerk II, and the acceptance of nine other Probation Officers to provide weekend and emergency coverage on an overtime basis from their regular assignments. The nine backup officers were paid per diem from the 1/2 Probation Officer budget item.

While the contract supports a full time officer with backup coverage, this provides monitoring for only that special condition of probation that pertains to home confinement. One consequence of the program is an increase in the number of probationers which the department must eventually supervise upon termination of that special condition. Secondly, with a full time caseload of 20 field visits per day, the home confinement officer cannot provide general casework service. This was specifically stated in the contract. However, the department does have responsibility for providing services within the limitations of the home confinement condition. For these reasons, each home confinement case is formally assigned to a supervision officer in one of the three special units (I.S.P., I.P.S.P., or D.W.I.). These officers have long term (5 years for felons, 1 to 3 years for misdemeanants) assignment to the case. In addition, should a violation of probation need to be filed during the period of home confinement, these officers prepare the paperwork. In essence, while not required to do so by the contract, the County of Monroe minimally is matching each dollar spent by the State under the contract.

CASE ACTIVITY

The first case was accepted on October 18, 1985. By the end of the period, 16 cases had been screened, 2 were rejected by the judiciary, 1 was rejected by the program, 7 were accepted into the program, and 6 are currently pending. In the two cases rejected by the court, one defendant was sentenced to 2 1/3 to 7 years in Attica, and the other received a one-year sentence in the Monroe County Jail. The case rejected by the program was a request for transfer from another county which the program cannot accommodate.

Of the 7 cases accepted, 6 were alternatives to the local jail and 1 was an alternative to prison.

These represent 825 days of home confinement, and are an alternative to 645 days incarceration at the local jail (the difference is caused by the one prison alternative case). Two violations of probation were filed during this period (on the same

case). The probationer was incarcerated for a total of 32 days as a result. Therefore, the net alternative number of days to local jail amounts to 613.

During this time the department made 224 home or on site work visits, 393 telephone calls directly to the probationer and another 55 collateral telephone calls to verify defendant's whereabouts. There were three office visits, 1 field collateral visit and 5 negative contacts.

CASE SELECTION CRITERIA

Since the program is an extension of the two year old local intensive supervision project, criteria for entrants is basically the same. That is case selection when initiated by probation is guided by the profile of the sentence prisoner population of the local jail on 1/1/83. Secondly, the program has two specific case exclusions. Exceptions to the above arise in cases where the existing plea bargaining policy of the District Attorney indicates incarceration for certain crimes, but the defendant has pled guilty to the entire indictment with no sentence promise (and a hope of a more favorable disposition) or the presiding judge is strongly in favor of incarceration despite a minimal prior criminal record and will accept no other alternative than home confinement. In cases where the referral initiates with the judiciary, the Probation Department can only make available a profile of the sentencing inmate population and emphasize the need to maintain program integrity through selection of only legitimate jail bound cases. However, in the final analysis only the presiding judge may state whether a defendant would have gone to jail, and the department must be accepting of this.

CASE PROFILES

The following section will be a part of future quarterly reports. However, the number of cases is too small to draw valid conclusions, and the reader is cautioned not to attempt an interpretation of the data.

The seven cases represent 4 felony charges (1 C felony, 2 D felonies, 1 E felony) and 3 misdemeanor charges (2 A misdemeanors, 1 B misdemeanor). Overall, 71% were male and 29% female with a racial mix of 57% white and 43% black. Of the six jail bound offenders, 67% were male and 33% were female, 50% were white and 50% black. However, the racial breakdown is not a true comparison to the analysis of 1/1/83 (67% black, 33% white). That study actually described cell space being used on a particular day. The above program percentages merely reflect race in all cases processed. When the figures are weighted by the alternate amount of jail time they would have received, the result is 56% black, 44% white. The prison alternative case is white.

In the felony group average age is 26 1/4 years, with a median age of 23 years. Prior convictions average 4 with a range of 0 to

15. Prior arrests average 5 with a range of 0 to 19. Average prior incarcerations are less than 1. Three of the 4 are white. These cases represent an average savings of 4.66 months in jail with a range of 2 to 6 months (excluding the prison alternative case).

There were 3 cases in the misdemeanor group. Prior convictions ranged from 1 to 9, prior arrest ranged from 1 to 19. Two of the 3 had no prior incarcerations. The third had been incarcerated 3 times. Two in this group were 18 and 19 respectively. The third is 62 years old. Two of the 3 are black.

SPECIAL PROBLEMS ENCOUNTERED

During the implementation of the home confinement program we have encountered several unanticipated problems which required either minor program modifications or the structuring of new guidelines. Telephone contacts are an essential component used to monitor compliance with the home confinement conditions of probation. We initially found that probationer's telephones were busy for extended periods of time. The constant "busy signal" encountered by probation personnel was an indication that the probationer was an extremely talkative individual, or the phone was out of order, or the probationer had rendered his phone inoperable. This problem was resolved by implementing a procedure whereby upon encountering a busy signal for a lengthy period of time, the verification operator would call to confirm that the probationer's telephone was operable. If it were determined that there was a conversation on the line, the probationer would be reminded that telephone conversation must be limited to 10 minutes in duration. The probationer was then cautioned that if the problem persisted, he would receive a negative contact notation.

We have also encountered a problem with probationers who are employed at the time of sentencing but later lose their employment during the period of home confinement. They often wish to seek or apply for new employment. We have found that an appropriate question to ask when considering this request is "what would the probationer be able to do if he were confined to the Monroe County Jail." While each case is reviewed individually, it has been our practice to deny permission to seek or apply for employment if the original employment was lost due to irresponsible conduct on the part of the probationer (i.e. excessive absenteeism, poor job performance, etc.).

Another problem which we find frequently is that probationers many times must leave their residence during hours or on days during which the Probation Department is closed and the officer on coverage has finished the field visits for the day and has turned off the mobile radio. We hope to resolve this problem in the near future by equipping the home confinement officer and supervisor with electronic pagers. The probationers will be instructed to call the answering service number in the event of an emergency, and if possible await the return call from the probation officer before

leaving their home. The probationers will be further instructed to call the answering service number upon their return home.

A somewhat serious problem we are beginning to experience as case numbers increase is one of logistics. Many probationers work varying hours, or attend counseling and out patient appointments. Simultaneously, the monitoring probation officer may be unavailable at a specific time of day due to a required court appearance. While we do coordinate home visits to coincide with conflicting schedules, we anticipate that this will become more difficult as the number of cases sentenced to home confinement increases. Although these problems will never be completely resolved, it would appear that difficulties may be reduced by keeping exceptions to the home confinement conditions at a minimum.

To date we have only returned one probationer to court who has violated the terms of his home confinement condition. This probationer was initially returned to court on a technical violation after he was observed away from his home in an unauthorized location. This matter was rather uniquely resolved in Rochester City Court when the presiding judge remanded the probationer to the Monroe County Jail for one week. At that time he was restored to home confinement with the admonishment that each additional technical violation of the terms of home confinement would result in progressively lengthier terms of incarceration.

RELATED PROGRAM ACTIVITIES

Program planning and some presentations were begun before funding actually began on October 1, 1985.

The following is a brief summary.

Presentations were made to all County Court Judges and those Supreme Court Justices who were sitting in criminal parts. Each City Court Judge was contacted and a presentation made at the monthly meeting of the Town Magistrates. However, during the next quarter, there were plans to again contact each of these groups with updated information.

A presentation was made before the Law Enforcement Council and cooperative agreements with these law enforcement agencies are being developed. During this quarter, initial agreements were formed with the Rochester City Police. The Council approved the use of a mobile radio by the program. Emergency Operations (911) provided training to all program personnel.

A series of program presentations to all probation staff was begun, and will continue into the next quarter.

The program director attended a conference in Pawling, New York sponsored by the Division of Probation and Correctional Alternatives. At the request of Doug McDonald, VERA Institute, a description of the original I.P.S.P. procedures, forms, and evaluations were forwarded in addition to available home confinement

write-ups. These were to assist in their task of creating a State wide evaluation form for all ATI projects. The program director and Officer Barrett spent one half day with the director of the Home Detention project in Oneida County (another ATI funded project) in order to provide that county with some initial guidance and program suggestions.

The program director was contacted by several outside sources. Commissioner of Probation, Donald Cochran, of the Commonwealth of Massachusetts, telephoned for program information. They are considering a project in Boston, Massachusetts. Holly English telephoned for information regarding an article she was writing for the New York Law Review (to be published in late 1985 or early 1986). A summary was submitted to the Judicial Process Commission for inclusion in their soon to be published criminal justice manual. Richard Prince of the Democrat and Chronicle Newspaper wrote an article which appeared on the editorial page of the December 22, 1985 edition.