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DIRECTIVE #13-23

To: Assignment Judges
Trial Court Administrators

From: Glenn A. Grant, Administrative Director 

Subj: Pretrial Services – Reduction of Pretrial Monitoring Level to ROR for Certain Eligible Defendants (Remands; Recovery Court); Discharge of Defendants Whose Case is Disposed of by Deferred Disposition

Date: August 18, 2023

This Directive, as approved by the Judicial Council, is intended to provide guidance regarding the possible reduction of a Criminal defendant's pretrial monitoring level when the State elects (a) to remand the defendant's case to Municipal Court, (b) to allow the defendant to plead into Recovery Court, or (c) to allow the defendant to enter a deferred disposition program. It is effective immediately.

The determination to downgrade and remand a Superior Court matter to Municipal Court¹, to allow a defendant to plead into Recovery Court, or to dispose of a case through entry into a deferred disposition program are decisions fully within the State's discretion. In these instances, the Judiciary should take appropriate action to modify that defendant's level of release, that is, to reduce their pretrial monitoring level, but only if no domestic violence related charges are present.

When a prosecutor either (a) downgrades and remands to Municipal Court an eligible defendant's sole case for which they are being monitored; or (b) allows an eligible defendant to plead into Recovery Court on defendant's sole

¹ This includes remands to the Essex County Remand Court.

case for which they are being monitored, the court shall reduce that defendant's monitoring level down to Release on their Own Recognizance (ROR). The court in those situations still can include a "no contact" provision as a condition of release based on the nature of the case.

This newly stated reduction-in-monitoring-level policy is subject to the following exceptions:

- The remand aspect of this policy **only affects** eligible defendants who are on pretrial monitoring for cases that initially charged defendant with an indictable offense that was later downgraded by the State to a disorderly persons offense. Where the defendant was ordered to pretrial monitoring for a case that initially charged the defendant with a disorderly persons offense, that defendant will be monitored pursuant to the level and conditions ordered by the court at the time of defendant's release hearing, unless defendant's monitoring is subsequently reduced subject to another policy.
- This policy change **does not apply** to any matter that also includes a domestic violence-related charge.

This policy will allow Pretrial Services staff to more effectively focus their efforts on monitoring higher risk defendants who are charged with more serious offenses. Each Vicinage shall develop procedures to have PSP staff identify any defendant currently on pretrial monitoring who may be eligible to have their monitoring level reduced pursuant to this policy. Going forward, any defendant eligible for a reduction in their monitoring level as set forth above shall have their monitoring level reduced to ROR at the time their case is downgraded to the Municipal Court or at the time of their plea into Recovery Court.

Lastly, when the state permits a defendant entry into a deferred disposition program on an eligible defendant's sole case for which they are being monitored, that defendant's monitoring will be discharged. Entry into a deferred disposition program is a case disposition, subject to post-disposition oversight by Probation rather than by Pretrial Services (since PSP's focus is entirely pre-dispositional). However, should the defendant fail to complete the deferred disposition, the court when terminating defendant's participation in the program shall order the defendant to resume pretrial monitoring and shall advise Pretrial Services of that. The provisions of this paragraph also extend to a defendant who enters a mental health diversion program.

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Any questions or comments regarding the policy set forth in this directive may be directed to the Criminal Practice Division by phone at (609) 815-2900, ext. 55300, or by email at AOC-CrimPrac.mbx@njcourts.gov.

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