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TO: Assignment Judges
Trial Court Administrators

FROM: Glenn A. Grant, J.A.D. 

SUBJ: **Criminal Justice Reform – Pretrial Services – (a) Strict Home Detention (without Electronic Monitoring), (b) Home Detention with Limited Exceptions (without Electronic Monitoring), and (c) Home Detention with Electronic Monitoring**

Date: November 30, 2021

DIRECTIVE # 27-21
(supersedes Directive #10-21)

This Directive provides updated guidance on the Pretrial Services use of Home Detention (HD) -- specifically, Strict Home Detention (Strict HD), and Home Detention with Limited Exceptions (HDLE). As such, it supersedes Directive #10-21 (“Criminal Justice Reform-Pretrial Services-Strict Home Detention (without Electronic Monitoring), Home Detention with Limited Exceptions (without Electronic Monitoring), and Home Detention with Electronic Monitoring”), effective immediately.

These categories of pretrial release, how they are to be monitored, and the required staff response to violations, are detailed below. Based on the experience with this initiative during the time that it has been in place, the revised guidance provided herein is intended to enhance the efficiency and the successful use of these options, including a stricter response for those defendants ordered to home detention who do not comply with the pretrial release conditions. Such noncompliance will result in Pretrial Services filing a violation of monitoring and requesting a bench warrant from the court for the defendant’s immediate arrest.

The court shall issue the warrant absent extraordinary circumstances. The Guidance on Home Detention with Electronic Monitoring (HDEM) is unchanged.

Among the attachments to this directive are: (1) the Criteria for Ordering Home Detention and/or Electronic Monitoring as a Condition of Pretrial Release, (2) the Home Detention Screening form, (3) the Electronic Monitoring Screening form, and (4) three Notices to Defendants detailing the conditions of release. These documents have been updated where necessary to reflect the revised guidance set forth in this Directive.

I. STRICT HOME DETENTION OR HOME DETENTION (WITHOUT EM) WITH LIMITED EXCEPTIONS TO LEAVE THE RESIDENCE.

The Criminal Justice Reform Act (CJRA) permits the use of home detention if the court finds it necessary to restrict the defendant to a specified residence to reasonably ensure that the defendant will appear for court, to protect the safety of the public or an individual, and so that the defendant will not obstruct or attempt to obstruct the criminal justice process. Given the importance of striking an appropriate balance between these concerns and the liberty and due process rights of the defendant, the use of home detention was reviewed for any necessary refinements. It was determined that courts order defendants to two categories of home detention without EM: (1) Strict Home Detention (Strict HD), in which a defendant is not allowed to leave the residence for any reason except to (a) appear for court, (b) attend in-person monitoring or supervision appointments with Pretrial Services or Probation, or (c) attend in-person attorney visits (hereafter referred to the “standard exceptions”), or (2) Home Detention with Limited Exceptions (HDLE), which permits the defendant to leave the residence for other purposes as well (e.g., recurring medical appointments, work, school).

When a court orders a defendant to HD without EM, the category of HD that the defendant is assigned to (Strict HD or HDLE) must correspond to the exceptions outlined above. Any defendant who is ordered to HD without EM and is allowed to leave the residence for only the three standard exceptions thus will be assigned to Strict HD. Any defendant ordered to HD without EM, but who is allowed to leave the residence for other reasons beyond the standard exceptions will be assigned to HDLE.¹ This distinction dictates the expectations and requirements that defendants must meet on pretrial monitoring. Additionally, it

¹ Note that if a defendant is ordered to HD with EM, that is a separate category (HDEM) unrelated to Strict HD or HDLE. Defendants are not simultaneously assigned to multiple categories for monitoring purposes. For example, defendants cannot be assigned to a combination of Strict HD and HDEM. If a defendant is ordered to both Strict HD and HDEM from different release orders, the defendant will be assigned to the highest tiered category (HDEM) and monitored using the methods prescribed for that category.

determines whether defendants will be subject to home detention checks by Intensive Supervision Program (ISP) staff or by Pretrial Services (PTS) staff. Home detention checks are explained below. See also the three Notices attached, describing the requirements of each category of HD.

Pretrial Services shall not make any other exceptions without a court order. If a court determines that the defendant should be permitted to leave the residence beyond the three standard exceptions, the court must specifically articulate in the release order the precise parameters of those allowances, including: times permitted outside the home, purpose of the permitted leaving, and addresses of the locations to which the defendant is permitted to travel. Pretrial Services shall request clarification if those details are missing from the pretrial release order, the Home Detention Screening Form, or the Electronic Monitoring Screening Form.

Prior to ordering any type of home detention, the court must ensure that the defendant meets certain minimum requirements. Most significant is that the defendant have a valid residence at which defendant is permitted to reside during the pendency of the criminal matter. While judges will necessarily exercise discretion in determining the appropriateness of the defendant's proffered residence, for a prospective home detention defendant the residence at a minimum must be available and accessible without interruption 24 hours per day/7 days per week. Additionally, the residence must be stable. If the court is satisfied that the residence requirement has been met, the address must be recorded by the court and provided to Pretrial Services. It is not the responsibility of Pretrial Services to determine whether the address or residence is valid. Rather, the court must determine whether the address is appropriate in accordance with this Directive in the presence of the parties and using either the attached Home Detention Screening Form or the Electronic Monitoring Screening Form.

Not every defendant will be able to satisfy the residence requirement for home detention (e.g., homeless defendants or defendants in temporary housing). Those defendants unable to provide a reliable residence shall not be ordered to home detention. These defendants should instead be placed on PML 3 with appropriate conditions that can successfully be monitored based on their circumstances.

Courts must continue to make a hierarchal determination regarding conditions of release. HDLE is less restrictive than Strict HD, and Strict HD is less restrictive than HDEM.

(a) ISP shall randomly conduct home detention checks on defendants ordered to Strict Home Detention (Strict HD).

Since the inception of the CJRA and the use of home detention as a condition of pretrial release, defendants have been monitored via new arrests, self-reporting, or, in some instances, third-party reporting. Intensive Supervision Program (ISP) officers have been trained and equipped to conduct home detention checks in the field. Accordingly, ISP will conduct home detention checks in the field for defendants ordered to Strict HD who do not have video reporting capabilities. ISP officers will conduct these checks randomly to ensure compliance with home detention. Home visits of defendants provides a greater level of assurance as well as a more proactive approach to enforcing the condition of home detention.

Pretrial Services shall ultimately determine which defendants are capable of video reporting. Only those defendants ordered to Strict HD who are not able to video report are eligible for ISP home detention checks. Courts may not order ISP to conduct home visits for defendants other than in this category. In addition, ISP is not required to visit defendants who report to PTS remotely by video.

In these home detention checks ISP will report to Pretrial Services whether a defendant is compliant or noncompliant. If an ISP officer reports that the defendant was not at home when they were required to be, PTS staff shall file a Violation of Monitoring with the court and request issuance of a bench warrant for the defendant's immediate arrest. The court shall issue the warrant absent extraordinary circumstances.

(b) PTS shall make random video calls to conduct home detention checks for defendants ordered to any type of home detention where the technology is available or may accept verifiable contemporaneous photo proof.

PTS will conduct video home detention checks of defendants ordered to any type of home detention (Strict HD or HDLE) if the technology to do so is available. Pretrial Staff will monitor defendants via random home detention checks via video or verifiable contemporaneous photographic proof:

Video confirmation protocol: The defendant must verify with the officer on the call their identity and location by displaying their face and location, such as a familiar room or a door or mailbox with visible address number.

Photographic confirmation protocol: The PTS officer must direct the defendant to write or act out a random word, code, or gesture in addition to the defendant's face and location, in the same frame, to ensure the picture is current. The defendant must send the picture within a reasonable period of time such that the officer is satisfied that the defendant did not have time to alter the photo. Defendants may be ordered to resend photos with different codes or random gestures if the integrity of the transmitted photo is in doubt.

Local vicinage leadership may create protocols for these checks to best ensure efficacy. However, at minimum, defendants must have access to necessary technology to satisfy this requirement. Additionally, procedures must be established to verify that defendants are in their ordered residence at the time required. Defendants who fail to respond to a random home detention check, or who are unable to prove that they are in their residence, are noncompliant with this condition. As to those noncompliant defendants, Pretrial Services staff shall file a Violation of Monitoring with the court and request that a bench warrant issue for the defendant's immediate arrest. The court shall issue the warrant absent extraordinary circumstances.

PTS shall not be required to conduct home detention checks if the pretrial release order does not specifically articulate the times a defendant is permitted to leave the residence or if the allowance is too broad or flexible (e.g., "Defendant is allowed to leave the residence for work" or "Defendant is permitted to leave the residence from 8:00 a.m. to 8:00 p.m.").

II. HOME DETENTION WITH ELECTRONIC MONITORING (HDEM)

The Criminal Justice Reform Act and the Rules of Court expressly direct the courts to set the least restrictive conditions of pretrial release that will reasonably ensure that the defendant will appear for all scheduled court events, that the safety of victims and the public is protected, and that the defendant will not obstruct or attempt to obstruct the criminal justice process.

Home Detention with Electronic monitoring (HDEM), as an authorized release condition, is recommended for use only with those defendants who pose a risk on pretrial release, but whose risk profile falls just short of the risk that would result in a no-release recommendation. Further, EM should be ordered only in conjunction with home detention.

It is important that HDEM as a condition of release be used only on defendants who meet the criteria, regardless of whether ordering HDEM is consistent with the Pretrial Services Program (PTS) recommendation of release.

III. CRITERIA FOR ORDERING HDEM

Experience since the inception of the CJRA has shown that conditioning release on HDEM is only practicable or useful in certain scenarios. The appended Criteria for Ordering HDEM document outlines the appropriate scenarios for ordering HDEM. The document is broken out into three sections and provides guidance for (A) the types of cases that are appropriate for HDEM, (B) the residency parameters for HDEM, and (C) the limited circumstances where it is appropriate for the defendant to leave the residence while on HDEM.

A. Types of Cases Appropriate for HDEM

HDEM should only be ordered for defendants who pose a risk so great that the defendant must remain confined to their residence at all times pretrial. Generally, HDEM should only be ordered in cases in which doing so will assist in protecting a victim. However, it should be noted that HDEM can provide a false sense of security in that regard, which should be taken into account when HDEM is used. The victim should be a living person with an identifiable address so that the victim's address can be entered into the electronic monitoring system and monitoring staff thereafter will receive the "Exclusion Zone Alert."²

B. Residence Parameters for HDEM

HDEM should only be ordered where the defendant has a stable residence/address and cannot be "homeless" or reside in a shelter (by definition, a shelter is not a stable residence). HDEM is not effective if the defendant does not have a stable residence or a reliable means of powering the EM device. It is also not effective if the defendant is permitted to leave the residence. Thus, HDEM should not be ordered if the defendant does not have a stable residence. Finally, a defendant on HDEM must have an available power supply within his or her residence to properly charge the necessary equipment.

Additionally, HDEM is only effective if the defendant's residence is a minimum distance from the victim's address. Specifically, the defendant's residence must be at least 2,500 feet from the victim's address. The court must confirm the

² The "Exclusion Zone Alert" is an automated email and text message that is sent automatically to the monitoring officer(s) on duty when the defendant enters a prohibited zone. If after a short period of time, the monitoring officer fails to acknowledge the alert using the link provided in the automated email, then the monitoring officer will receive an escalation telephone call from a live vendor representative.

type of home or living arrangement prior to ordering an HDEM condition and record the defendant's address in the Pretrial Release Order.

Any modifications to allow the defendant to leave the home or for relaxation of HDEM restrictions must be made by formal application to the court. Further, the defendant may not leave an Inclusion Zone³ without receiving advance permission from a judge. PTS staff are not authorized to make any such decision.

C. Limited Circumstances Where Defendant on HDEM May Leave the Residence

Defendants ordered to HDEM must have clearly articulated release orders that detail their home detention schedule and any leave parameters. Staff cannot effectively monitor defendants, and risk having "false" alerts raised, if an accurate schedule is not entered for a defendant. Similar to HDLE, approved reasons to leave the residence may include:

1. Employment. In limited circumstances, the court may be compelled to order HDEM and make certain allowances for the defendant to continue working. The purpose of HDEM, however, is to effectively monitor potentially dangerous defendants. Thus, this allowance is subject to certain restrictions:
 - i. The defendant must already be employed.
 - ii. The defendant's work location must be known and stable.
 - iii. The defendant's work schedule must be stable.
 - iv. The defendant must have reliable means of transportation to and from work.
 - v. The defendant must provide the name of their work supervisor, and the supervisor's phone number and work address. This information will be used for emergency purposes only.
 - vi. The nature of the defendant's work-release must be appropriate (e.g., home detention with work release is not an appropriate condition/allowance for a defendant who works with children and who is also charged with an offense under N.J.S.A. 2C:24-4).
2. Medical Appointments. Defendants with regularly scheduled medical appointments should be permitted to continue those appointments. This should be explicitly articulated in the Pretrial Release Order, including the times and days of the week that the defendant is permitted to make those appointments. Permission to leave the home for irregular or

³ If the defendant leaves an Inclusion Zone, then an "Inclusion Zone Alert" text message and email is sent automatically to the monitoring officer(s) on duty. If after a short period of time, the monitoring officer fails to acknowledge the alert using the link provided in the automated email, then the monitoring officer will receive an escalation telephone call from a live vendor representative.

sporadic appointments must be requested by application of the defendant and must be approved by a judge.

If the parties intend to request that the court set an EM condition, or the court considers ordering an EM condition, the parties must complete and sign the EM Screening Criteria Form prior to the centralized first appearance/central judicial processing event (CFA/CJP) or finalization of the release order.

D. Neither ISP nor PTS conduct home checks on defendants ordered to electronic monitoring.

Defendants ordered to electronic monitoring will not have in-person ISP or remote PTS home detention checks. Instead, Pretrial staff will monitor defendant's location via GPS, thereby eliminating the need for random home detention checks.

IV. ALL DEFENDANTS MUST BE PERMITTED TO ATTEND IN-PERSON (1) COURT APPEARANCES, (2) PRETRIAL/PROBATION APPOINTMENTS, AND (3) ATTORNEY VISITS WITH 48-HOUR NOTICE TO PRETRIAL SERVICES.

All defendants must be permitted to leave the home for in-person (1) court appearances, (2) pretrial or probation appointments, and (3) attorney visits with 48-hour notice to PTS. Defendants who are ordered to Strict HD, HDLE, or HDEM are not exempt from any other conditions of their release. This includes requirements that the defendant appear in court when ordered and that the defendant report in person to Pretrial/Probation when ordered. Defendants' release orders nonetheless must be explicit in detailing these exceptions to their confinement so as to avoid confusion and inconsistencies in release orders.

V. HOME DETENTION AND EM SCREENING CRITERIA FORMS

The HD and EM Screening Criteria Forms provide the court with the essential information necessary for considering whether HD or EM may be appropriate for a defendant and what parameters must be set in conjunction with the conditions. These forms must be filled out prior to a party requesting, or the court ordering, HDLE, Strict HD or HDEM in order to assist the parties, the court, and Pretrial Services in ensuring that a defendant is an appropriate candidate for a particular type of release and that the defendant can be effectively monitored. The forms require the parties to be prepared to speak to the defendant's living arrangements as well as detailing their ability/willingness to comply with conditions of release. If the information elicited by the form reveals that a defendant is not capable of complying with conditions of home detention, the court shall be so notified.

A. EM Screening Form

In Part 1 of the EM Screening Form, the prosecutor must provide the reasons why EM is necessary. This includes victim information and whether the victim lives within a short distance of the defendant. It also requests specific information where the prosecutor is requesting that the defendant be ordered to EM based on extraordinary circumstances.

In Part 2, the defendant or defense attorney must provide information related to the defendant's residence and whether defendant will have access to an electrical power outlet to charge the EM device. It also reaffirms that the defendant understands that if ordered to EM with home detention, defendant is not permitted to leave the residence except for express purposes specifically articulated in the Pretrial Release Order, or on formal application to the court and approval by a judge. In addition, the defendant must provide employment information and, if applicable, medical information related to the defendant's need to go to medical appointments, as well as the need to attend appointments with his or her defense attorney. Finally, there is a space to request permission to leave the home for other specific purposes.

B. HD Screening Form

On the HD Screening Form, the defense attorney must provide relevant information to ensure that the defendant satisfies the minimum requirements for Strict HD or HDLE. This includes certifying that the defendant has an appropriate residence, that the defendant understands the expectations if placed on Strict HD or HDLE, and whether the defendant has the technological capability to participate in video reporting. The form also includes sections for requesting leave parameters for defendants seeking release on HDLE. This will assist the courts, the parties, and staff in evaluating the appropriateness of Strict HD or HDLE, video reporting capabilities, and ensuring that release orders are accurate and monitorable.

VI. CONCLUSION

Please distribute this Directive and attached HD/EM Screening Criteria and EM Screening Criteria Forms to your staff and stakeholders. Please also take steps to ensure that the HD and EM Screening Criteria forms are available for attorneys in the appropriate courtrooms. HD or EM conditions shall not be ordered without completion of the appropriate form. Additionally, courts must consider the specific circumstances of a defendant's suitability on HDEM as required by the Criminal Justice Reform Act and the Rules of Court, the relevant information contained in the Criteria for Ordering HDEM document, and in accordance with this Directive.

Any questions or comments regarding this directive may be directed to the Nicholas W. Salamon, Pretrial Services Program Chief, AOC Criminal Practice Division, at nicholas.salamon@njcourts.gov, or by phone at (609) 815-2900 x55300.

- Attachments: (1) Criteria for Ordering Home Detention and Electronic Monitoring
(2) Electronic Monitoring Screening Criteria Form
(3) Home Detention Screening Form
(4) Three Notices to Defendants:
 a) Notification to Defendant Strict HD without Video Reporting
 b) Notification to Defendant Strict HD with Video Reporting
 c) Notification to Defendant HDLE
(5) Request for Leave from Home Detention Form

cc: Chief Justice Stuart Rabner
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CRITERIA FOR ORDERING HOME DETENTION AND ELECTRONIC MONITORING AS A CONDITION OF PRETRIAL RELEASE

The Judicial Council has approved the following criteria for ordering electronic monitoring (EM) as a condition of pretrial release that are intended to increase the efficacy of electronic monitoring (EM) and to help ensure that it is used properly.

Definitions:

Home detention with limited exceptions (HDLE): Home detention with limited exceptions requires a defendant to remain confined to a designated residence 24 hours/7 days a week. Defendants may leave the residence to (1) attend in-person court appearances, (2) attend in-person pretrial appointments with Pretrial Services or in-person Probation appointments, (3) attend in-person attorney appointments after providing 48-hour notice to PSP, or (4) for any other reason preapproved by court order. Additionally:

- Defendants ordered to HDLE will not be subject to random home detention checks by ISP officers.
- Defendants ordered to HDLE will be subject to random remote home detention checks by PSP officers. During these checks, defendants must confirm their location via an appropriate method. For example, by using a landline phone, video reporting, or via another visual representation, such as a verifiable, contemporaneous photograph depicting the defendant in front of an identifiable landmark at their home.
- Prior to ordering HDLE, the court shall enter into a colloquy on the record with the defendant to ascertain their ability to comply with this condition. If the court determines the defendant will not be able to comply with this condition, the court shall not order HDLE. Similarly, if a defendant is ordered to HDLE who does not participate in video reporting and cannot provide contemporaneous video or photographic evidence to show that they are home during a remote home detention check, the defendant's matter must be referred to the court to modify this condition. Upon referral, the court must determine whether the defendant is able to comply with HDLE, including that the defendant has the ability to verify that he or she is home during a random remote home detention check, and must remove or modify this condition if the court determines that the defendant is unable to comply.
- Noncompliance with HD conditions in the release order or in notices provided to the defendant shall constitute a violation. Additionally, Pretrial Services will request a bench warrant for the defendant's arrest. The court shall issue the warrant absent extraordinary circumstances.

Special care must be taken when ordering HDLE. Courts must consider that defendants who are permitted to leave their residence are not actively monitored while outside of their house. Therefore, it may be more appropriate for a defendant to be ordered to Strict HD which is stricter than HDLE.

Strict Home Detention (Strict HD): Strict HD requires a defendant to remain confined to a designated residence 24 hours/7 days a week. The only approved reasons a defendant may leave their residence is to (1) attend in-person court appearances, (2) in-person pretrial appointments with Pretrial Services or in-person Probation appointments, or (3) in-person attorney appointments. The defendant must notify PSP a minimum of 48-hours prior to an attorney appointment. Additionally:

- Defendants ordered to Strict HD who participate in remote video reporting will be subject to random video home detention checks by PSP officers.
- Defendants ordered to Strict HD who do not participate in video reporting will be subject to random home detention checks by ISP by face-to-face contact.

- Strict HD is highly restrictive and should only be ordered for defendants who pose a risk so great that they must remain confined to their residence at all times during the pretrial period.
- Noncompliance with HD conditions in the release order or in notices provided to the defendant shall constitute a violation. Additionally, Pretrial Services will request a bench warrant for the defendant's arrest. The court shall issue the warrant absent extraordinary circumstances.

Home Detention with Electronic Monitoring (HDEM): Home Detention with EM is the highest level of monitoring short of detention. HDEM requires defendants to be equipped with a device that monitors their location 24 hours/7 days per week. The CJRA specifically provides electronic monitoring may be ordered as part of ordering the defendant to home detention. It does not specifically permit ordering electronic monitoring without home detention. N.J.S.A. 2A:162-17(b)(2)(k). This means defendants ordered to electronic monitoring must meet the same minimum requirements of Strict HD or HDLE in addition to the requirements to order HDEM. Additionally:

- Defendants ordered to HDEM will not be subject to random home detention checks by either ISP or PSP.
- Noncompliance with HD conditions in the release order or in notices provided to the defendant shall constitute a violation. Additionally, Pretrial Services will request a bench warrant for the defendant's arrest. The court shall issue the warrant absent extraordinary circumstances.

Criteria for ordering (1) HDLE, (2) Strict HD, or (3) HDEM as a condition of Pretrial release:

I. Home Detention with Limited Exceptions must be ordered for defendants ordered to home detention who are permitted to leave the residence for reasons beyond complying with court requirements or meeting with defense counsel.

HDLE shall be used for defendants required to remain confined to their residence during the pretrial period but for, attending (1) in-person court appearances, (2) in-person pretrial appointments with Pretrial Services or in-person Probation appointments, (3) in-person appointments with counsel after providing 48-hour notice to PSP, or (4) for any other reason preapproved by court order. HDLE grants flexibility for a defendant by permitting them to leave their residence for preapproved reasons. This flexibility must be balanced with the recognition that a defendant permitted to leave their residence are not monitored while out of their home. Prior to ordering a defendant to HDLE the court must ensure they satisfy minimum requirements to reasonably assure the court they will successfully comply with those conditions.

a. Residence Parameters for HDLE.

- i. The defendant must have a stable residence/address and cannot be "homeless," cannot reside in a shelter, and cannot be in "transient housing" (by definition a shelter and transient housing are not a stable residence).
- ii. The defendant must confirm the type of his or her dwelling. The defendant must confirm they have access to the residence 24 hours/7days a week. If the defendant is not the homeowner, access shall include permission granted by the homeowner for the defendant to reside there. The court must enter a colloquy with the homeowner to confirm the defendant has permission to reside at the home. If the homeowner is unavailable, defense counsel must proffer that they have spoken directly to the homeowner and the homeowner has confirmed the defendant has permission to reside at the home. The court may not order a defendant to reside at a home without confirming that the defendant has permission to reside therein. The defendant must confirm status of other residents residing in the proposed home, specifically, if anyone residing in the residence is currently on Pretrial Monitoring, Probation, Parole, or is charged with a pending criminal offense in New Jersey or any other jurisdiction.

- iii. Any requests for any temporary adjustment to the Pretrial Release order must be sought by motion before the court or through the use of the “Pretrial Request for Leave from Home Detention.” The defendant may not leave the residence without advance permission of a judge but for medical emergencies.
 - iv. The defendant’s address, at which the defendant must remain must be provided to PSP and the court prior to a release decision.
- b. **Technology Parameters for HDLE.** A defendant ordered to HDLE must have the ability to verify upon request that they are located at their ordered residence. This may be done using a device capable of video calling, sending a picture through email or text message, or a landline phone.
 - i. The court shall enter into a colloquy on the record with the defendant to ascertain their ability to comply with this condition. If the court determines the defendant will not be able to comply with this condition, the court shall not order HDLE.
 - ii. If a defendant is ordered to HDLE and cannot comply with random home detention checks, the defendant’s matter must be referred to the court to modify this condition. Upon referral, the court must determine whether the defendant is able to comply with HDLE, including that the defendant has the ability to verify that he or she is home during a random remote home detention check, and must remove or modify this condition if the court determines that the defendant is unable to comply. A defendant who can comply but refusing will be in violation of their condition.
- c. **Employment:** HDLE may be used for defendants who are employed at the time of their release where the court determines appropriate. The court must inquire regarding a defendant’s employment before considering whether the defendant is an appropriate candidate for HDLE. PSP must have the ability to effectively monitor a defendant who leaves the home to address the safety of the victim and the public, while also ensuring that the defendant is not subject to violations of HD that could have been prevented by providing relevant information to PSP at the outset. Thus, a defendant who is permitted to leave the home for work may be an appropriate candidate for HDLE only if he or she satisfies the following criteria:
 - i. The defendant is currently employed. A defendant should not be permitted to leave the home while on HDLE to conduct a job search.
 - ii. The defendant’s job location is stable. Defendants on HDLE should not be permitted to roam the state.
 - iii. The defendant’s work schedule is stable. PSP cannot effectively monitor a defendant with an unstable schedule. Therefore, a defendant with a schedule that changes daily or has mandatory overtime without notice would not be a good candidate for HDLE.
 - iv. Defendant has control over their commute to and from work. A defendant must be able to demonstrate a reliable form of transportation. Otherwise, a defendant may not be a good candidate for HDLE.
 - v. Defendant can provide the name, address and phone number of the employer. Pretrial Services must be able to verify the employer’s name and address. The employer’s phone number should also be provided so that the employer can be contacted in the case of an emergency. This is not for the purpose of verifying employment, but for use in an emergency situation for a high-risk defendant.
 - vi. Determination of whether HDLE is appropriate with relation to the nature of the defendant’s work. For example, a defendant charged with sex offenses against a minor whose employment brings the defendant into contact with minors, is not a good candidate for HDLE.

Should an application be made for the defendant to be able to work while on HDLE, or the court orders that the defendant may leave the residence to work while on HDLE, proof of employment must be provided to the court and the work hours are to be placed on the record and on the order, e.g., “can work from XX:XX a.m./p.m. to YY:YY a.m./p.m. (include commute time) on the following days.” Any change of the conditions must be in the form of an order of the court.

- d. Medical Appointments:** A defendant with regularly scheduled medical appointments should be permitted to leave the home for such appointments.
 - i. These appointments should be explicitly delineated in the pretrial release order. A defendant with sporadic appointments may not be a good candidate for HDLE. Defendants who wish to leave the home for medical appointments not delineated in the court order must make application to the court via the “Request for Leave from Home Detention” form.

Each party shall be required to notify PSP in advance of the CFA/CJP session or detention hearing if they intend to request HDLE, Strict HD or HDEM. Anytime any of these conditions is ordered, the attorneys shall fill out and sign a criteria form (see attached) based on the criteria described above. PSP must review this form and raise any concerns with the judge prior to the court session.

II. Strict Home Detention must be ordered for defendants ordered to home detention who are only permitted to leave the residence to comply with court requirements or meet with defense counsel.

Strict Home Detention is more restrictive than HDLE. Specifically, a defendant ordered to Strict HD shall only be permitted to leave their residence for attending (1) in-person court appearances, (2) in-person pretrial appointments with Pretrial Services or in-person Probation appointments, or (3) in-person appointments with counsel after providing 48-hour notice to PSP. Defendants ordered to Strict HD must remain confined to their homes at all other times and shall not have any additional exceptions.

Prior to ordering a defendant to Strict HD the court must ensure that the defendant is able to comply with the condition.

- a. Residence Parameters for Strict HD.** Defendants ordered to Strict HD must meet the residence requirements enumerated for HDLE.
- b. Technology Parameters for Strict HD.** Defendants ordered to Strict HD shall have their condition of home detention monitored in one of two ways. Defendants who participate in remote video reporting will be monitored in the same manner as HDLE defendants. E.g., random calls from PSP that they must answer, during which, the defendant must verify they are located in the ordered residence.

If the defendant does not participate in remote video reporting, monitoring will be through face-to-face contact with ISP officers. This will ensure the highest risk defendants are monitored throughout the pretrial period regardless of their technological capabilities. Defendants who cannot meet the requirements for random calls to verify their location will instead have random checks by an ISP officer. The ISP officer will go to the defendant’s ordered residence unannounced and ensure the defendant is there. If the ISP officer is not able to confirm the defendant’s location the defendant will be in violation of their HD condition.

- c. Employment.** A defendant ordered to Strict HD shall not be permitted to leave their residence for employment. If a court determines the defendant’s risk is not so significant that they may leave their residence for employment purposes the court must place the defendant on HDLE.

- d. **Medical Appointments.** A defendant ordered to Strict HD shall not be permitted to leave their residence for regular medical appointments. However, in the event of an emergency, a defendant will not be considered in violation of their condition of HD for seeking help, upon providing proof.

III. Home Detention with Electronic Monitoring

HDEM is the most restrictive level of monitoring and should only be considered for defendants who are just beneath the need for detention and pose a risk so significant that an immediate response is required for a violation of their confinement. Generally, this risk will only arise in cases in which there is a victim.

- a. **Cases in which there is a victim:**

- i. The victim must be a person. EM is not appropriate where the victim is a business, town, agency, etc.
- ii. The victim must have a known address. Pretrial Services must be able to enter an identifiable exclusion zone. Thus, a proper address is necessary.

- b. **Other extraordinary circumstance:**

- i. The defendant's release recommendation is either "Release with condition – Weekly reporting + HD/EM" or "No Release Recommended."
- ii. The extraordinary circumstances must be explained on the form and the pretrial release order, including why EM is necessary in ensuring the defendant's compliance pretrial and how EM satisfies this requirement.

- c. **Residence parameters.** A defendant ordered to HDEM must meet all residence requirements of HDLE in addition to:

- i. Defendant's residence must be no less than 2,500 feet from an identified victim. This accounts for the recommended 1,500 ft. exclusion zone and 500-foot inclusion zone recommended by BI, along with an additional 500 feet in between the zones.
- ii. The defendant must confirm that they have access to an electrical outlet throughout the day, evening, and overnight hours to charge the EM equipment.

- d. **Technology Parameters for HDEM.** Required technology will be provided to the defendant. However, the defendant must care for the equipment including having access to electricity for charging.

- e. **Employment.** A defendant ordered to HDEM may be permitted to work. The defendant shall meet the same requirements listed in HDLE. In addition:

- i. Pretrial Services must be able to verify the employer's name and address. to enter the work location as an inclusion zone in BI.
- ii. In addition, some physical labor jobs may not be conducive to using EM equipment such as being submerged in water or manual labor where there is a likelihood of breaking the EM bracelet.

- f. **Medical Appointments.** A defendant ordered to HDEM may be permitted to attend regularly scheduled medical appointments. The defendant shall meet the same requirements enumerated for HDLE.

Defendants on HDEM are monitored via GPS and as such will not be monitored via any random video face-to-face checks.

IV. All Defendants Must Be Permitted to Attend (1) Court Appearances, (2) Pretrial/Probation in Person Reporting, and (3) in-person attorney visits with 48-hour notice to PSP.

All defendants must be permitted to leave the home for scheduled court appearances and pretrial monitoring and/or probation appointments. Defendants who are ordered to HDLE, Strict HD, or HDEM are not exempt from any other conditions of their release. This includes requirements that the defendant appear in court when ordered and the defendant report in person to Pretrial/Probation when ordered. Defendants release orders must be explicit in detailing this exception to their confinement, this will prevent confusion and inconsistencies in release orders.

Additionally, all defendants must be permitted to leave their residence to meet with their attorneys. Due to the inherent need for some flexibility in these meetings, release orders need not specifically detail dates and times of attorney appointments. However, the court must at minimum order that defendants shall provide PSP with no less than 48-hours' notice prior to their attorney appointment. Notice must include the time and location of the meeting. This advanced notice is paramount in ensuring accurate monitoring of defendants on HDLE, Strict HD, or HDEM.



New Jersey Judiciary
Electronic Monitoring Screening Criteria
(for Electronic Monitoring as a Condition of Pretrial Release)

Defendant: _____ SBI Number: _____

Complaint Number: _____

Part 1 – Must be completed by the Prosecutor

Reasons for requesting electronic monitoring:

1. Victim/Witness

- a. Is the victim/witness a person, not a place of business? ☐ Yes ☐ No
- b. If Yes, will you be able to provide the victim's address to the Pretrial Service staff? ☐ Yes ☐ No
- c. Does the defendant reside within 2500 feet (about half a mile) of the victim/witness residence? ☐ Yes ☐ No

2. Other extraordinary circumstance:

- a. Was the defendant's release recommendation either "Release with condition – Weekly reporting + HD/EM" or "No Release Recommended"? ☐ Yes ☐ No

b. Explain the extraordinary circumstance:

Prosecutor's Name: _____

Prosecutor's Signature: _____

Date: _____

Electronic Monitoring Screening Criteria (for Electronic Monitoring as a Condition of Pretrial Release)

Defendant: _____ SBI Number: _____

Part 2 – Must be completed by the Defense Attorney after consultation with defendant

Residence Parameters:

1. Does the defendant have a stable residence/address where he/she will remain for the duration of the case? ☐ Yes ☐ No

Address: _____

Phone Number: _____

2. Does the defendant reside in a shelter? ☐ Yes ☐ No

3. In what type of dwelling does the defendant reside? (i.e., apartment complex, single family home, etc.)

4. Will the defendant have access to an electrical outlet to charge the unit? ☐ Yes ☐ No

5. Does the defendant understand that home detention is defined as staying in the home at all times, with limited exceptions detailed in the Release Order, and that requests for any temporary adjustment must be made by formal application to the Court? ☐ Yes ☐ No

6. Any other relevant information regarding defendant's residence:

Employment Information:

1. Is the defendant currently employed? If so, provide employer information. Please list additional employment on a separate sheet. ☐ Yes ☐ No

Business Name: _____

Business Address: _____

Business Phone: _____

Current Work Schedule: _____

2. Does the defendant rely on public transportation to travel to work? ☐ Yes ☐ No

Electronic Monitoring Screening Criteria (for Electronic Monitoring as a Condition of Pretrial Release)

Defendant: _____ SBI Number: _____

3. Does the defendant rely on others to commute to and from work, so that a curfew may not be met? ☐ Yes ☐ No

4. Does the defendant's work location change frequently? ☐ Yes ☐ No

5. Does the defendant have stable work hours? ☐ Yes ☐ No

If No, does the defendant know of changes to his/her work schedule ahead of time, so he/she may notify Pretrial Staff at least 5 business days prior to the change and during regular business hours (M-F from 8am to 5pm)? ☐ Yes ☐ No

6. Any other relevant information regarding employment:

Medical Information:

(Please do not provide specific medical information. Information must be limited to frequency/date of appointment only. The nature and type of appointment should not be included.)

1. Will the defendant need to leave the residence for regularly scheduled medical appointments/treatment? ☐ Yes ☐ No

If Yes, what is the current schedule? _____

2. Will the defendant need to leave the residence for frequent medical appointments? ☐ Yes ☐ No

If Yes, what is the frequency? _____

3. Does the defendant have a medical condition that may require frequent visits the hospital emergency room? ☐ Yes ☐ No

4. Does the defendant understand requests to leave the home to attend any medical appointments, not specified in the release order, must be made by formal application to the Court at least 5 business days prior to change, and may require documentation of proof of attendance? ☐ Yes ☐ No

Electronic Monitoring Screening Criteria (for Electronic Monitoring as a Condition of Pretrial Release)

Defendant: _____ SBI Number: _____

Attorney Visits:

1. Does the defendant currently have any scheduled appointments to meet with his/her attorney? ☐ Yes ☐ No

If Yes, please specify: _____

2. Does the defendant understand requests to leave the home to meet with his/her attorney, not specified in the release order, must be made by formal application to the Court at least 5 business days prior to change and may require documentation or proof of attendance? ☐ Yes ☐ No

Other requests to allow defendant to leave the home:

1. Purpose of leave: _____
Frequency: _____
Length: _____
Comment: _____

2. Purpose of leave: _____
Frequency: _____
Length: _____
Comment: _____

3. Purpose of leave: _____
Frequency: _____
Length: _____
Comment: _____

4. Purpose of leave: _____
Frequency: _____
Length: _____
Comment: _____

Defense Attorney's Name: _____

Defense Attorney's Signature: _____

Date: _____



New Jersey Judiciary
Home Detention Screening Criteria
(for Home Detention as a Condition of Pretrial Release)

Defendant: _____ SBI Number: _____

Complaint Number: _____

Part 1 – Must be completed by the Prosecutor

Residence Parameters:

1. Does the defendant have a stable residence/address where he/she will remain for the duration of the case? ☐ Yes ☐ No
In what type of dwelling does the defendant reside? (i.e., apartment complex, single family home, etc.)

Address: _____

Phone Number: _____

2. Does the defendant reside in a shelter or temporary transitional housing? ☐ Yes ☐ No
3. If the defendant is not a homeowner or renter of the listed residence, did the homeowner or renter give the defendant permission to live there? ☐ Yes ☐ No
4. Does the defendant understand that home detention is defined as staying in the home at all times, with limited exceptions detailed in the Release Order, and that requests for any temporary adjustment must be pre-approved by the court? ☐ Yes ☐ No
5. To the best of your knowledge, is any other person living at the proposed residence currently on probation, parole, or charged with a pending offense in New Jersey or any other state or jurisdiction? ☐ Yes ☐ No
If Yes, explain:

6. Any other relevant information regarding defendant's residence:

Home Detention Screening Criteria (for Home Detention as a Condition of Pretrial Release)

Defendant: _____ SBI Number: _____

Compliance Verification:

1. Does defendant have the ability to verify they are located at their residence upon request? This may be done using a device capable of video calling, sending a picture through email or text message, or a landline phone. ☐ Yes ☐ No
 - a. If using a landline phone, please provide number: _____
2. Is the defendant willing to comply with requests to verify their location, including random in person checks or remote video/telephone checks? ☐ Yes ☐ No

Employment Information (only to be used for HDLE):

1. Is the defendant currently employed? If so, provide employer information. ☐ Yes ☐ No
Please list additional employment on a separate sheet.

Business Name: _____

Business Address: _____

Business Phone: _____

Current Work Schedule: _____

2. Does the defendant rely on public transportation to travel to work? ☐ Yes ☐ No
3. Does the defendant rely on others to commute to and from work, so that a curfew may not be met? ☐ Yes ☐ No
4. Does the defendant's work location change frequently? ☐ Yes ☐ No
5. Does the defendant have stable work hours? ☐ Yes ☐ No

If No, does the defendant know of changes to his/her work schedule ahead of time, so he/she may notify Pretrial Staff at least 5 business days prior to the change and during regular business hours (M-F from 8am to 5pm)? ☐ Yes ☐ No

6. Any other relevant information regarding employment:

Home Detention Screening Criteria (for Home Detention as a Condition of Pretrial Release)

Defendant: _____ SBI Number: _____

Medical Information:

(Please do not provide specific medical information. Information must be limited to frequency/date of appointment only. The nature and type of appointment should not be included.)

1. Will the defendant need to leave the residence for regularly scheduled medical appointments/treatment? ☐ Yes ☐ No

If Yes, what is the current schedule? _____

2. Will the defendant need to leave the residence for frequent medical appointments? ☐ Yes ☐ No

If Yes, what is the frequency? _____

3. Does the defendant have a medical condition that may require frequent visits the hospital emergency room? ☐ Yes ☐ No

4. Does the defendant understand requests to leave the home to attend any medical appointments, not specified in the release order, must be made by formal application to the Court at least 5 business days prior to change, and may require documentation of proof of attendance? ☐ Yes ☐ No

Attorney Visits:

1. Does the defendant currently have any scheduled appointments to meet with his/her attorney? ☐ Yes ☐ No

If Yes, please specify: _____

2. Does the defendant understand requests to leave the home to meet with his/her attorney, not specified in the release order, must be made by formal application, utilizing the Request for Leave from Home Detention form, to the Court at least 48-hours prior to change and may require documentation or proof of attendance? ☐ Yes ☐ No

Other requests to allow defendant to leave the home:

1. Purpose of leave: _____
Frequency: _____
Length: _____
Comment: _____

Home Detention Screening Criteria (for Home Detention as a Condition of Pretrial Release)

Defendant: _____ SBI Number: _____

2. Purpose of leave: _____

Frequency: _____

Length: _____

Comment: _____

3. Purpose of leave: _____

Frequency: _____

Length: _____

Comment: _____

4. Purpose of leave: _____

Frequency: _____

Length: _____

Comment: _____

Defense Attorney's Name: _____

Defense Attorney's Signature: _____

Date: _____

State of New Jersey

Plaintiff,

v.

Defendant.

Superior Court of New Jersey
Law Division – Criminal Part
- Select County - County

Municipality

Complaint Number: _____

Promis/Gavel Number: _____

FACTS Number: _____

**Notification of Expectations for
Defendant ordered to Strict Home
Detention without Video Reporting**

You are receiving this notice because you were ordered to Strict Home Detention as a condition of your pretrial release. This notice provides what you must do to ensure your compliance with this condition:

- 1. You are on Strict Home Detention, you must remain in your residence at all times other than appearing at the courthouse for a scheduled court event, or to attend a scheduled in-person appointment with Pretrial Services or Probation, or to attend an in-person appointment with your attorney with 48-hour advance notice to PSP.**
- 2. If you require a modification to this condition or your court order, even if it is for a previously approved reason, you must submit to the court for said leave through counsel, or *pro se* if you are unrepresented using the “Request for Leave from Home Detention” form. You may not leave your residence unless approval is granted by the court.**
- 3. You will be subject to random visits by an Intensive Supervision Program (ISP) officer.** An ISP officer will come to your residence periodically and attempt to make contact by knocking on your door, ringing a doorbell if available, and/or calling the phone number you provided to Pretrial Services. They will confirm you are home by making face-to-face contact with you at your door. The officer will not enter your home.
- 4. If an ISP officer visits your home and cannot confirm you are there, they will report you to your assigned Pretrial Services officer who will file a Violation of Monitoring with the court and request a bench warrant for your immediate arrest. The court shall issue the warrant absent extraordinary circumstances.**
- 5. ISP officers are assisting Pretrial Services in conducting home visits only.** ISP officers are conducting home visits to ensure that you are at your ordered residence. The ISP officer conducting the visit is not specifically assigned to your case and cannot answer any questions regarding your pretrial release. Additionally, they are not there to conduct a monitoring appointment or complete any other compliance check other than your condition of home detention. All questions relating to your pretrial release conditions must be posed to your assigned Pretrial officer.

6. If you have any questions regarding your conditions of release, contact your PSP officer immediately.

State of New Jersey

Plaintiff,

v.

Defendant.

Superior Court of New Jersey
Law Division – Criminal Part
- Select County - County

Municipality

Complaint Number: _____

Promis/Gavel Number: _____

FACTS Number: _____

**Notification of Expectations for
Defendant ordered to Strict Home
Detention with Video Reporting**

You are receiving this notice because you were ordered to Strict Home Detention as a condition of your pretrial release. This notice provides what you must do to ensure your compliance with this condition:

- 1. You are on Strict Home Detention, you must remain in your residence at all times other than appearing at the courthouse for a scheduled court event, or to attend a scheduled in-person appointment with Pretrial Services or Probation, or to attend an in-person appointment with your attorney with 48-hour advance notice to PSP.**
- 2. If you require a modification to this condition or your court order, even if it is for a previously approved reason, you must submit to the court for said leave through counsel, or *pro se* if you are unrepresented using the “Request for Leave from Home Detention” form. You may not leave your residence unless approval is granted by the court.**
- 3. You participate in Video Reporting. You will be required to periodically answer random, unscheduled video calls from Pretrial Services, or provide contemporaneous photo proof to Pretrial Services, of your location during the periods of confinement to your home.** These calls or requests for proof may occur at varying times throughout your ordered period of confinement.
- 4. Upon answering these calls, the Pretrial officer may ask that you provide verification you are in your ordered residence. This may include showing the Pretrial Services officer a familiar location that was established at the start of monitoring as part of your residence, your address number on a door, house or mailbox, or any other reasonable method to determine you are home. The same requirements apply if asked to produce a photo verifying your presence at the court-ordered location. The Pretrial Services officer will not ask you to show private areas such as restrooms.**
- 5. If the Pretrial officer is unable to reach you, or you are unable to sufficiently verify you are in your ordered residence, the officer will file a Violation of Monitoring with the court and request a bench warrant for your immediate arrest. The court shall issue the warrant absent extraordinary circumstances.**

6. If you have any questions regarding your conditions of release, contact your PSP officer immediately.

State of New Jersey

Plaintiff,

v.

Defendant.

Superior Court of New Jersey
Law Division – Criminal Part
- Select County - County

Municipality

Complaint Number: _____

Promis/Gavel Number: _____

FACTS Number: _____

**Notification of Expectations for
Defendant ordered to Home Detention
with Limited Exceptions**

You are receiving this notice because you were ordered to Home Detention with Limited Exceptions as a condition of your pretrial release. This notice provides what you must do to ensure your compliance with this condition:

- 1. You must remain home at all times other than the limited exceptions explicitly permitted by court order.** You will be permitted to leave your home during those periods solely for the reasons ordered by the court, and only for those periods and reasons. At all other times you must remain home.
- 2. If you require a modification to this condition or your court order, even if it is for a previously approved reason, you must submit to the court for said leave through counsel, or *pro se* if you are unrepresented using the “Request for Leave from Home Detention” form.** You may not leave your residence unless approval is granted by the court.
- 3. You will be required to periodically answer random, unscheduled video calls from Pretrial Services, or provide contemporaneous photo proof to Pretrial Services, of your location during the periods of confinement to your home.** These calls or requests for proof may occur at varying times throughout your ordered period of confinement.
- 4. Upon answering these calls, the Pretrial officer may ask that you provide verification you are in your ordered residence.** This may include showing the Pretrial Services officer a familiar location that was established at the start of monitoring as part of your residence, your address number on a door, house or mailbox, or any other reasonable method to determine you are home. The same requirements apply if asked to produce a photo verifying your presence at the court-ordered location. The Pretrial Services officer will not ask you to show private areas such as restrooms.
- 5. If the Pretrial officer is unable to reach you, or you are unable to sufficiently verify you are in your ordered residence the officer will file a Violation of Monitoring with the court and request a bench warrant for your immediate arrest. The court shall issue the warrant absent extraordinary circumstances.**
- 6. If you have any questions regarding your conditions of release, contact your PSP officer immediately.**



New Jersey Judiciary
Request for Leave from Home Detention
For Attorney Use

Part 1 - To be completed by defendant's attorney.

Defendant Name: _____ **Compl./Ind. #:** _____

I, _____, am requesting a temporary leave from Home Detention for _____

Defendant requests leave from their home detention by way of the following:

1. Defendant is on _____
2. Defendant is requesting to leave their residence to (Be specific: destination, requested individuals defendant will visit, purpose for leave, total time away from residence, etc.)
_____.
3. Defendant requests for leave on _____.

I certify as part of this request:

1. Copies of this request have been provided to:
☐ Pretrial Services on _____.
☐ Assigned Prosecutor on _____.
2. The prosecutor _____ the request.
3. Defendant understands this is a one time exception to leave their residence and they are not permitted to leave at any time other than the above or for any reason not otherwise ordered by the court.

Defendant Attorney's Name

Defendant Attorney's Signature

Date

Prosecutor's Signature

Date

Part 2 - Must be completed by the Court.

Defendant's request to leave their residence is:

If a hearing is required, it shall occur on on _____

If the request was granted, the court authorizes the following

Date

Judge

***Form may be submitted electronically, including but not limited to via e-mail. Signatures may be satisfied using /s. ***