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TO: Assignment Judges **DIRECTIVE: #19-23**
Trial Court Administrators **(Supersedes Directive # 27-21)**

FROM: Glenn A. Grant, Administrative Director

RE: 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: October 17, 2023

This Directive provides updated guidance on the use of the three categories of Home Detention for defendants on pretrial monitoring: (a) Strict Home Detention, (b) Home Detention with Limited Exceptions, and (c) Home Detention with Electronic Monitoring.

These categories of pretrial release, when they may be ordered, how they are to be monitored, and the required staff response to violations, are detailed below. The revised guidance provided by this directive is intended to enhance the efficiency and the successful use of these options. As such, effective immediately, it supersedes Directive #27-21 (“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”).

Attached to this directive are: (1) the Criteria for Ordering Home Detention and/or Electronic Monitoring as a Condition of Pretrial Release (CN 12972), (2) the Home Detention Screening form (CN 12973), (3) the Electronic Monitoring Screening form (CN 12220), (4) Notification of Expectations for Defendant Ordered

to Strict Home Detention (CN 12872), (5) Notification of Expectations for Defendant Ordered to Home Detention with Limited Exceptions (CN 12873), and (6) the Request for Leave from Home Detention form (CN 12740). These documents have been updated to reflect the revised guidance set forth in this Directive.

I. STANDARD HD and HDEM POLICY REQUIREMENTS

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;
- that the safety of the victims and the public is protected; and/or
- 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 must be strictly limited to only those cases where no other condition(s) are sufficient to manage the defendant's risk. Courts must continue to make a hierarchal determination regarding conditions of release. The hierarchy for home detention, from least restrictive to most restrictive, is as follows:

- Home Detention (HD):
 - o Home Detention with Limited Exceptions (HDLE)
 - o Strict Home Detention (Strict HD)
- Home Detention with Electronic Monitoring (HDEM)

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.

A court **shall not** order a defendant to home detention with or without electronic monitoring unless the Home Detention Screening form (CN 12973) or the

Electronic Monitoring Screening form (CN 12220) has been filled out by the parties prior to a defendant's release or motion hearing. Lastly, a court shall not order a defendant to home detention, with or without electronic monitoring, unless the following requirements have been satisfied. The parties' consent to releasing a defendant on HD shall not be the basis for ordering home detention with or without electronic monitoring.

A. Home Detention Requirements

i. The Court Must Find that the Defendant Meets the Following Residency Requirements

Prior to ordering any type of home detention with or without electronic monitoring, the court must ensure that the defendant meets certain minimum requirements. Most significant is that the defendant have a residence at which defendant is permitted to reside during the pendency of the criminal matter. 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;
- be stable; and,
- belong to the defendant, or the defendant must provide the court proof that the defendant may reside at that residence.

If the court intends to order electronic monitoring, then the residence must also:

- have an available power supply to properly charge the necessary equipment.

The court must determine whether the residence is appropriate in accordance with this Directive in the presence of the parties and on the record using either the Home Detention Screening Form (CN 12973) or the Electronic Monitoring Screening Form (CN 12220) promulgated with this directive. Questions regarding residency must be answered by the defendant or defense counsel, not by court staff. Court staff shall not determine whether a proffered address is acceptable.

If the court is satisfied that the residence requirement has been met, **the court shall record the address on the release order**. Once the court has approved the residence at which the defendant shall reside, the residence may not change absent further order of the court on defendant's application, which can be made by submitting a completed Request for Leave from Home Detention form (CJ 12740)

to the court. As part of this application, a new Home Detention Screening Form (CN 12973) or Electronic Monitoring Screening Form (CN 12220) must be completed and submitted.

Not every defendant will be able to satisfy the residence requirement for home detention (e.g., defendants without housing or defendants in temporary housing). Those defendants unable to provide a reliable residence shall not be ordered to home detention.

ii. The Court Must Find that the Defendant Has the Following Necessary Technology

Defendants ordered to home detention will by necessity require access to certain technology. All defendants who are ordered to home detention with or without electronic monitoring must have 24/7 access to a cellular phone with video or photo capability. Defendants who cannot access the minimum required level of technology, or who are ordered not to possess such technology, shall not be ordered to home detention.

B. Standard Exceptions to Home Detention With or Without Electronic Monitoring

A defendant who is ordered to home detention with or without EM must be permitted to leave the residence for the following reasons:

- To appear for court;
- To attend in-person monitoring or supervision appointments with Pretrial Services or Probation; and,
- To attend in-person attorney visits.
 - Before a defendant will be permitted to leave the home to meet with defendant's attorney, the appointment must be confirmed with counsel.

These conditions are hereafter referred to as the "standard exceptions." The court shall not restrict these exceptions.

II. HOME DETENTION (WITHOUT EM)

A. Home Detention with Limited Exceptions to Leave the Residence

Any defendant who is allowed to leave the residence for reasons beyond the standard exceptions shall be ordered to HDLE. 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 Program (PSP) staff shall not make any other exceptions without a court order. Failure to include any of the required information in the release order shall result in PSP staff refusing the defendant's request to leave the home and may result in a Violation of Monitoring should defendant leave the home. It shall be defendant's responsibility to seek any clarification or correction of pretrial release orders. Defendants ordered to HDLE shall be provided the Notification of Expectations for Defendant Ordered to Home Detention with Limited Exceptions (CN 12873), which is automatically appended to the Pretrial Release Order if completed in the Order Module.

B. Strict Home Detention

A defendant who is not allowed to leave the residence for any reason except for the standard exceptions set forth in section I.B. above shall be ordered to Strict HD. If a defendant is permitted out of the home for any other reason, then the defendant cannot be ordered to Strict HD. Defendants ordered to Strict HD shall be provided the Notification of Expectations for Defendant Ordered to Strict Home Detention (CN 12872), which is automatically appended to the Pretrial Release Order if completed in Order Module.

C. PSP shall utilize random video calls to conduct home detention checks for defendants ordered to Home Detention.

PSP shall monitor defendants ordered to HD via random home detention checks by video or verifiable contemporaneous photographic proof. During the initial intake for a defendant ordered to HD, the defendant must establish an identifiable location¹ at the defendant's home, which PSP thereafter shall use to confirm the defendant's location during random home detention checks. This identifiable location may not change without prior notice by the defendant to PSP

¹ An identifiable location may be a familiar room or a door or mailbox with visible address number.

staff. The defendant bears the burden of proving the identifiable location is at the residence to which the defendant is ordered to reside.

PSP random home detention check confirmation protocols are as follows:

Video confirmation protocol: The defendant must verify with the officer on the call their identity and the previously established identifiable location by displaying their face and the location.

Photographic confirmation protocol: The PSP officer must direct the defendant to write or act out a random word, code, or gesture in addition to the defendant's face and the previously established identifiable 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.

PSP random home detention checks shall only be conducted during normal court operation hours. As such, any defendant who is permitted out of the home during this window of time will not be subject to a random home detention check.

D. Pretrial Response to Non-Compliance

Defendants who:

- Are determined to not be home during the random home detention check;
- 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 their home detention condition of release. PSP staff shall immediately file a Violation of Monitoring with the court. After PSP staff file the violation of monitoring, it will be the duty of the State to determine if there is probable cause to arrest the defendant for criminal contempt pursuant to N.J.S.A. 2C:29-9.

III. HOME DETENTION WITH ELECTRONIC MONITORING (HDEM)

Home Detention with Electronic monitoring (HDEM) shall only be used for those defendants who pose a risk on pretrial release, but whose risk profile falls just short of requiring detention. Further, EM shall only be ordered in conjunction with home detention.

It is important that HDEM as a condition of release be used only for defendants who meet the criteria, regardless of whether ordering HDEM is consistent with the Pretrial Services Program (PSP) recommendation of release or the agreement of the parties. The appended Criteria for Ordering HDEM document (CN 12972) discussed below outlines the appropriate scenarios for ordering HDEM. The parties' consent to releasing a defendant on HDEM shall not be the basis for ordering electronic monitoring.

A. CRITERIA FOR ORDERING HDEM

The standard requirements set forth in section I above must be met before HDEM may be ordered. The Criteria for Ordering HDEM (CN 12972) are set forth in three sections and provide 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. Defendants ordered to electronic monitoring will not have random PSP home detention checks conducted by video. Instead, Pretrial Services staff will monitor defendant's location via alerts received from the electronic monitoring vendor program, thereby eliminating the need for random home detention checks.

i. The Court Must Find that the Defendant's Case is Appropriate for HDEM

HDEM shall only be ordered for defendants who pose a risk so great that the defendant must remain confined to their residence at all times during the pretrial period. Generally, HDEM should only be ordered in cases in which doing so will assist in protecting a victim. However, HDEM can provide a false sense of security in that regard, which should be considered when HDEM is used. The victim must be a 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

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.

ii. The Court Must Find the Defendant Meets the Following Residence Parameters for HDEM

In addition to the residency requirements set forth in section I.A. above, 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 shall confirm the 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, which authority shall not be delegated. PTS staff are not authorized to make any such decision.

iii. Courts Must Clearly Articulate the Limited Circumstances When 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 as set forth in section II.A above. 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:
 - a. The defendant must already be employed.

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.

- b. The defendant's work location must be known and stable.
- c. The defendant's work schedule must be stable.
- d. The defendant must have reliable means of transportation to and from work.
- e. 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.*
- f. 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 sporadic appointments must be requested by application by the defendant and must be approved by a judge.

IV. HOME DETENTION AND EM SCREENING CRITERIA FORMS

The HD and EM Screening Criteria Forms create a record and 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 shall be filled out **prior** to a party requesting, or the court ordering, HDLE, Strict HD or HDEM 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 or cannot satisfy the minimum requirements set forth in the sections above, the court shall be so notified and shall not order HD or HDEM.

A. The Parties Shall Complete and Submit an EM Screening Form

In Part 1 of the EM Screening Form (CN 12220), 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 when the prosecutor is requesting that the defendant be ordered to EM based on extraordinary circumstances. The prosecutor shall fill out Part 1 even in those instances where the court is considering HD or EM over the State's objection.

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 their defense attorney. There is also a space to request permission to leave the home for other specific purposes. Finally, the defendant will be required to certify each time they submit an EM Screening Form that residing at the provided address will not be a violation of any court order, condition of release, DCP&P agreements, or any restraining orders.

B. The Defendant Shall Complete an HD Screening Form

On the HD Screening Form (CN 12973), 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. Finally, the defendant will be required to certify each time they submit an EM Screening Form, that residing at the provided address will not be a violation of any court order, condition of release, DCP&P agreements, or any restraining orders.

VI. CONCLUSION

Please 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, which shall be uploaded to the eCourts system by court staff. Additionally, courts must consider the specific circumstances of a defendant's suitability on HD or EM 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 may be directed to the Criminal Practice Division by email at AOC_CrimPrac.mbx@njcourts.gov or by phone at (609) 815-2900, ext. 55300.

Attachments:

- (1) Criteria for Ordering Home Detention and/or Electronic Monitoring as a Condition of Pretrial Release (CN 12972)
- (2) Home Detention Screening form (CN 12973)
- (3) Electronic Monitoring Screening form (CN 12220)
- (4) Notification of Expectations for Defendant Ordered to Strict Home Detention (CN 12872)
- (5) Notification of Expectations for Defendant Ordered to Home Detention with Limited Exceptions (CN 12873)
- (6) Request for Leave from Home Detention form (CN 12740).

cc: Chief Justice Stuart Rabner
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Attachment 1

Criteria for Ordering Home Detention
and/or Electronic Monitoring as
a Condition of Pretrial Release

(CN 12972)



New Jersey Judiciary Criteria for Ordering Home Detention (HD) and Electronic Monitoring (EM) as a Condition of Pretrial Release

The following are the criteria for ordering home detention (HD) with or without 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 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, 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.

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 will be subject to random video home detention checks by Pretrial Services Program (PSP) officers. During these checks, defendants must confirm their location via an appropriate method. For example, by, 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.
- 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.

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 Criminal Justice Reform Act (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 PSP.
- Noncompliance with HD conditions in the release order or in notices provided to the defendant shall constitute a violation.

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. The defendant must confirm that by residing at the address provided to the court, the defendant will not be in violation of any court ordered Temporary or Final Restraining Order, any Division of Child Protection and Permanency (DCP&P) orders/agreements, a court order barring contact with any person or persons at that residence, any other court order, or any other agreements/orders entered into by the defendant with agencies which forbids or limits his contact with any person or persons at that residence.
- iv. 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.

- v. The defendant's address, at which the defendant must remain must be provided to the court prior to a release decision and will be made part of the Pretrial Release order.
- vi. The address shall not be changed absent an order of the court.

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 or sending a picture through email or text message.

- 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 Centralized First Appearance (CFA)/Centralized Judicial Processing (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 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.

Defendants who do not have the technological capability to participate in remote video reporting should not be ordered to Strict HD.

- 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, Inc., 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, Inc.
- 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 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.

Attachment 2

Home Detention Screening Form

(CN 12973)



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

Defendant Name	Complaint/Indictment Number	SBI Number
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Part 1 – Must be completed by the Defendant/Defense Attorney

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: _____

2. Does the defendant reside in a shelter, temporary, or transitional housing? Yes No

3. Is the defendant a homeowner, renter, or lessee of the listed residence? Yes No
If No, provide the name and phone number of the owner/renter/lessee.

Address: _____

Phone: _____

- 3a. If the defendant is not the homeowner, renter, or lessee of the listed residence, did the homeowner, renter, or lessee give the defendant permission to live at the residence? 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 made by formal application to 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:

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

Defendant Name	Complaint/Indictment Number	SBI Number
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6. Any other relevant information regarding defendant's residence: Yes No

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, or sending a picture through email or text message. Yes No

2. Is the defendant willing to comply with requests to verify their location, including random remote video/telephone checks? Yes No

Employment Information (only to be used for HDLE):

1. Is the defendant currently employed? Yes No

If Yes, provide employer information.

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

6. 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

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

Defendant Name	Complaint/Indictment Number	SBI Number
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7. Does the defendant understand that while on home detention, they will be unable to make last minute switches to their work schedule, accept last minute overtime shifts, or be let out for ancillary tasks not directly related to their work schedule? (e.g. picking up a paycheck on a day off) Yes No

8. Any other relevant information regarding employment: Yes No

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 to 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: _____

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

Defendant Name	Complaint/Indictment Number	SBI Number
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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 to Pretrial Services Staff and approved at least 48 hours prior to the scheduled appointment? Additionally, does the defendant and counsel understand that defense counsel must verify the appointment with Pretrial Services? Yes No

If Yes, defense counsel, please provide your contact information so that Pretrial Services can verify attorney visits prior to approval.

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: _____

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

Defendant Name	Complaint/Indictment Number	SBI Number
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4. Purpose of leave: _____
Frequency: _____
Length: _____
Comment: _____

Defense Attorney's Name	Defense Attorney's Signature	Date
	s/	

I, (defendant) do hereby certify that by residing at the above address, I will not be in violation of any court ordered Temporary or Final Restraining Order, any Division of Child Protection and Permanency orders/agreements, a court order barring me from contact with any person or persons, or any other court order.

Defendant's Name	Defendant's Signature	Date
	s/	

Attachment 3

Electronic Monitoring Screening Form

(CN 12220)



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

Defendant Name	Complaint/Indictment Number	SBI Number
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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 s/	Date
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Electronic Monitoring Screening Criteria (for Electronic Monitoring as a Condition of Pretrial Release)

Defendant Name	Complaint/Indictment Number	SBI Number
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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: _____

2. Does the defendant reside in a shelter, temporary, or transitional housing? Yes No

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

4. Is the defendant a homeowner, renter, or lessee of the listed residence? Yes No
If No, provide the name and phone number of the owner/renter/lessee.

5. If the defendant is not the homeowner, renter, or lessee of the listed residence, did the homeowner, renter, or lessee give the defendant permission to live at the residence? Yes No

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

7. 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

8. 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

9. Any other relevant information regarding defendant's residence: Yes No

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

Defendant Name	Complaint/Indictment Number	SBI Number
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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

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. Does the defendant understand that while on home detention, they will be unable to make last minute switches to their work schedule, accept last minute overtime shifts, or be let out for ancillary tasks not directly related to their work schedule? (e.g. picking up a paycheck on a day off) Yes No

7. Any other relevant information regarding employment: Yes No

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

Defendant Name	Complaint/Indictment Number	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 to 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 to Pretrial Services Staff and approved at least 48 hours prior to the scheduled appointment? Additionally, does the defendant and counsel understand that defense counsel must verify the appointment with Pretrial Services? Yes No

If Yes, defense counsel, please provide your contact information so that Pretrial Services can verify attorney visits prior to approval.

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

Defendant Name	Complaint/Indictment Number	SBI Number
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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
	s/	

I, (defendant) do hereby certify that by residing at the above address, I will not be in violation of any court ordered Temporary or Final Restraining Order, any Division of Child Protection and Permanency orders/agreements, a court order barring me from contact with any person or persons, or any other court order.

Defendant's Name	Defendant's Signature	Date
	s/	

Attachment 4

Notification of Expectations for Defendant
Ordered to Strict Home Detention

(CN 12872)

State of New Jersey

Plaintiff,

v.

Defendant.

Superior Court of New Jersey
Law Division – Criminal Part

County

Municipality

Complaint Number: _____

Promis/Gavel Number: _____

FACTS Number: _____

**Notification of Expectations
for Defendant ordered to
Strict Home Detention**

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 Pretrial services Program (PSP).**
2. You must reside at the address provided for on the record and indicated in your Pretrial Release Order. You shall not reside at any other address absent a motion made to the court and a new court order being entered. When applying for a change of address, you must explicitly state the reasons for the address change and prove all minimum requirements necessary for such address change. A new screening form will be required. A change of address is not valid until a new written release order is issued by the court. A change of address does not change other conditions of the original release order, and those conditions shall remain as set forth in the original release order.
3. 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.
4. **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.

5. 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.
6. **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 a bench warrant may be issued.**
7. If you have any questions regarding your conditions of release, contact your PSP officer immediately.

Attachment 5

Notification of Expectations for
Defendant Ordered to Home
Detention with Limited Exceptions

(CN 12873)

State of New Jersey

Plaintiff,

v.

Defendant.

Superior Court of New Jersey

Law Division – Criminal Part

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 a bench warrant may be issued.**
6. If you have any questions regarding your conditions of release, contact your Pretrial Services Program (PSP) officer immediately.

Attachment 6

Request for Leave from Home Detention Form

(CN 12740)



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

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

Defendant Name	Complaint/Indictment Number	SBI Number
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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

s/

Defendant Attorney's Signature

Date

s/

Prosecutor's Signature

Date

Part 2 - Must be completed by the Court

Defendant's request to leave their residence is:

Date

s/

Judge

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