

<b>Contra Costa County</b> <b>Office of the Sheriff</b>  <b>CSB Policy and Procedure</b>	<b>DETENTION</b>	<b>NUMBER:2.19.03</b>
	<b>RELATED ORDERS:</b> PC 830.1, 840, 1203.016, 1203.017, 1203.018, 1208.2, 1208.5, 4004, 4019 People v. Superior Court (Hubbard), People v. Raygoza (2016) 2 cal. App. 5 <sup>th</sup> 593	
<b>ISSUE DATE: 11-30-2023</b> <b>REVISION DATE: 11-4-2024</b>	<b>CLEARANCE:</b>  <b>Custody</b>	
<b>CHAPTER:</b>  <b>Custody Alternative Facility</b>	<b>SUBJECT:</b>  <b>Electronic Home Detention</b>	

**I. POLICY**

- A. The Sheriff’s Office’s commitment to utilizing resources to their best potential necessitates a strong and progressive Electronic Home Detention (EHD) program, which maximizes alternatives to traditional incarceration while also ensuring public safety. The EHD program provides for public safety, maintains judicial confidence, and allows the offender/ participant to be a contributing member of society while completing their court sentence.

**II. PROGRAM PURPOSE**

- A. The EHD program allows selected individuals who are sentenced to county jail commitments to participate in the home detention program administered by the Office of the Sheriff. The EHD participant is closely supervised utilizing personal supervision and electronic monitoring equipment. The program is voluntary, and participants are given the opportunity to apply via a court referral. Participants are limited statutorily to those defined under section Penal Code §1203.016 and are screened to ensure they meet the program’s selection criteria.
- B. EHD also includes the placement of inmates who are unable to post bail pursuant to Penal Code §1203.018; those inmates placed on electronic monitoring in lieu of being released on their own recognizance, as well as involuntary commitments pursuant to Penal Code §1203.016.
- C. Applicants are selected who can benefit from a tightly structured program allowing them to return to specified community programs and employment. The supervision in the program is individually structured to provide the participant with appropriate support to be successful. The support afforded by the program is essential to prompt participants to be more productive and to develop a self-reliant lifestyle that could curb recidivism. Safety for the community is paramount.
- D. EHD shall be operated in accordance with Sheriff’s Office policies and procedures, EHD program rules and regulations, and in compliance with applicable laws.

### **III. DEFINITIONS**

- A. **PARTICIPANT:** An individual who has been charged or convicted in a criminal case.
- B. **ESCAPE.** Escapes, for purposes of this manual, shall be defined as cutting/tampering or rendering the bracelet strap and/or monitor inoperable.
- C. **CONCURRENT SENTENCING:** Multiple commitments that allow two or more sentences to be served at the same time.
- D. **CONSECUTIVE SENTENCING:** Multiple commitments for which two or more sentences run one after the other, with the term to be served equal to the cumulative total of all sentences.

### **IV. GENERAL**

#### **A. BOOKING PROCESS**

1. Participants may be required to submit to a drug screening test during the application process, placement into the program, and/or during program participation. A positive drug test (including medical marijuana) may result in disqualification and/or removal from the program and the participant may be returned to custody.
2. The participant will be booked into the jail management system.
3. The participant will be fingerprinted and photographed.
4. The participant will be thoroughly briefed on the rules, regulations, and procedures for the EHD Program.
5. Prior to, or on the date of booking, the participant will read and sign the following documents:
  - a. EHD rules which contain the following:
    - EHD home detention agreement;
    - the participant's rights while in the program;
    - controlled substance and alcohol agreements;
    - unauthorized equipment removal agreement, to include replacement costs of the device(s); and
    - program participation agreement.
6. The participant's work program, inclusion zone, exclusion zone(s) if applicable, and scheduled times away from their residence will be determined and entered into the EHD management system.
7. The participant will be given complete instructions concerning the operation and charging of the EHD equipment (GPS monitoring device) that will be attached to the participant's ankle.

8. Equipment operation will be verified in the EHD monitoring system before the participant leaves the office.
9. The participant may have additional conditions of participation in the EHD program (residential treatment program participation, treatment group attendance, etc.). These additional conditions will be documented and presented to the participant at the time of booking. Whenever possible, these conditions should be based on court documentation or an participant's needs as verified by the Case Manager, who may require proof.

B. PROGRAM REQUIREMENTS

1. Unrestricted access to the place of residence in Contra Costa County for Sheriff's Office staff to conduct random, unannounced home checks.
  - a. Home is defined as inside the four walls of a participant's residence.
  - ~~a.b.~~ The term residence may include a residential treatment program.
2. Adequate access to an active telephone (cellular or residential).
3. Adequate access to electricity for unit charging purposes.

C. RESTRICTED ITEMS

1. Firearms, ammunition, alcohol, and illegal drugs (including medical and recreational marijuana) are prohibited from being in the participant's residence or used by the participant or in the possession of the participant during the program period without prior program staff approval.

D. RULES/REGULATIONS

1. As part of the orientation process, participants placed on EHD will be advised of the EHD rules and regulations of the program and will be provided with a signed copy of the forms.
2. Scheduled locations may include, but are not limited to, places of employment, courts, schools, day reporting centers, probation, and parole offices, and medical or program appointments. EHD staff may authorize overnight, or other absences as appropriate, and such absences must be documented in the participant's file.
3. Participants will not be allowed to recreationally visit casinos, bars, or similar businesses. Employment in these businesses must have prior approval by CAF staff.
4. Unauthorized stops may be excused in the case of a medical or other type of emergency. In all cases, the participant must advise EHD staff as soon as practical and must present evidence (receipt) of medical treatment and/or the nature of the emergency.
5. Changing the place of the scheduled location for an approved destination or telephone number without prior approval of EHD staff is not permitted.

6. Damage or loss of monitoring equipment may result in program removal and the participant being held financially and/or criminally responsible for the damage or loss.
7. Consumption or use of alcoholic beverages or illegal drugs (including medical and recreational marijuana) is prohibited and may result in program removal.
8. Abuse, misuse, or taking any prescribed medication in a manner other than specifically instructed by the prescribing physician is prohibited and may result in program removal without proof of a valid prescription.
9. Being arrested or charged with any crime including a misdemeanor traffic violation, while on the program, is prohibited and may result in program removal.
10. Associating with ex-felons, persons with a criminal history, gang members, or any person whom EHD staff advises the participant not to associate with is prohibited and may result in program removal.
11. Allowing a social gathering of more than two (2) adults (other than residents) at the participant's home without approval by EHD staff is prohibited and may result in program removal.
12. Possessing, transporting, or using any type of firearm/weapon or police radio/scanner while on the program is prohibited and may result in program removal.
13. **Being dishonest or uncooperative** with EHD staff or law enforcement officers is prohibited and may result in program removal.
14. Participants may be permitted a scheduled time away from their residence as approved by EHD staff. Participants who are unemployed may request scheduled time away from their residences to seek employment. The participants shall be required to advise and provide proof to program staff of the locations at which they applied for employment. Failure to follow staff orders may result in this privilege being revoked.
15. Minor rule violations may result in documented verbal warnings and potential reductions of scheduled time away from their residences. Repeated minor rule violations may result in program removal and return to jail.
16. Major rule violations may result in program removal and return to jail. Examples of major rule violations include, but are not limited, to the following:
  - a. Repeated violation of scheduling restrictions;
  - b. Tampering with any part of the EHD equipment;
  - c. Unauthorized absence from a scheduled location;
  - d. Testing positive for illegal drugs, recreational and medical marijuana, and/or alcohol; or
  - e. Violation of protective orders and exclusion zones.

E. FIELD OPERATIONS

1. Deputies shall conduct residential house checks with two Deputies. Assistance from local law enforcement may be required any time an arrest is anticipated, or other circumstances exist which may compromise the officer's safety.
2. Field units will not proceed to any location/residence where weapons are suspected to be located, or where the officer(s) suspects that force may be used, without first contacting his/her immediate supervisor and the corresponding law enforcement agency for assistance.

F. COMPUTING SENTENCES

1. The CAF Sergeant will calculate the sentence at the time the scheduled appointment is entered into the jail management system.
2. Commitment papers received from the courts are maintained in booking folders, which must contain the following information:
  - a. Applicant's name;
  - b. Court docket, including:
    - Length of sentence,
    - Court credits,
    - Concurrent or consecutive sentencing,
    - Judge's signature, and
    - Court seal or filing stamp;
  - c. Promise to Appear; and
  - d. Date sentence to start (enrollment date).
3. Prior to computing the release date, staff will review the commitment papers carefully to determine the following:
  - a. Commencement date;
  - b. Length of sentence; and
  - c. Credit for time served.
4. All sentences are considered concurrent unless the commitment states otherwise. When a participant is active in a program, all additional commitments must be reviewed to ascertain whether concurrent or consecutive sentencing has been specified by the court. In the absence of such specifications, the court will be contacted for clarification.
5. Good Time and Work Time credits will be given to participants on EHD as directed by the court. All participants will receive court-directed credits.

G. SUPERVISION

1. Participants will be monitored using three levels of supervision. A participant's supervision level will be determined based on the participant's ability to follow jail or program rules, the potential threat to public safety, and/or the participant's risk of re-offending.
  - a. Level One: Low-Risk Supervision – Participants are allowed increased time for personal errands as well as pre-approved programs and employment appointments. Home visits should be conducted approximately once every month.
  - b. Level Two: Medium-Risk Supervision – Participants are allowed pre-approved and scheduled changes in location for employment and specific errands. Home visits should be conducted approximately once every two weeks.
  - c. Level Three: High-Risk Supervision – Participants are restricted to their place of residence or approved employment, medical or program appointments. Home visits should be conducted approximately once per week. Individuals already sentenced but with a stay of execution may make an application for participation in the EHD program.
2. Participants may be required to visit the CAF office during and after business hours during which the following may be accomplished:
  - a. Visual check of the EHD device for evidence of tampering;
  - b. Discussion of any rule violations and explanation of any corrective measures or actions necessary;
  - c. Random drug/alcohol testing; and
  - d. Replacement of equipment as necessary and any other request.

#### H. SEARCH AND SEIZURE

1. Per Penal Code §1203.16 and §1203.18, participants assigned to the program are mandated to follow CAF EHD rules and regulations.
  - a. It is not the intent of the CAF staff to conduct extensive searches during every contact with a participant. cursory searches will be completed to ensure compliance and maintain the credibility of the program.
  - b. Searches are to be conducted for reasons related to the enforcement of the terms and conditions of the participant's EHD program rules, or in the case of participants on probation for another matter, their probation conditions, or other legitimate law enforcement purposes. Reasonable grounds for a search would include verifying compliance with the terms and conditions of the EHD program rules or the conditions of probation and verifying that the participant is living at the residence.
  - c. Participants will sign an EHD agreement acknowledging the search terms provided in the EHD rules. If, during a home visit or other contact with a participant, the participant refuses to allow a search per the terms of the EHD contract, the participant will be in violation of the rules and

conditions of the EHD agreement and will be immediately returned to custody.

## I. RESIDENCE SEARCHES / HOME CONTACTS

1. There will be a minimum of two Deputies for any house-check search. Additional assistance may be considered depending on the circumstances of the search or contact.
2. Prior to a residence search, vehicle search, or home contact, it shall be confirmed that the participant lives at the targeted residence. Deputies shall only conduct a residence search at the participant's place of residence. Criteria that can be used to establish residency include:
  - a. The officer has a "reasonable belief" that the participant lives in the home due to direct observation. This can include observing the participant enter the home with a key or answering the telephone.
  - b. The participant's admission that they reside at the residence.
  - c. The participant can provide copies of rental agreements or utility bills establishing that they reside in the home.
  - d. Deputies conducting a search, per terms of probation or terms of the EHD agreement, will comply with knock and notice requirements. If there is no response to a knock at the door and Deputies suspect the participant may be present, the Deputy will first call and check the EHD GPS points. Prior to entering a residence, Deputies will identify themselves, state the purpose of their presence, and notify a supervisor.
  - e. Upon entering the residence, Deputies should determine who else is present. For safety and security reasons, it is recommended that Deputies require the occupants of the residence to remain in a central location of the residence. When conducting a search pursuant to probation or EHD terms, Deputies may briefly detain others present in the residence to ascertain their identity, relationship to the participant, and relationship to the participant's residence.
  - f. With specific and articulable facts justifying a cursory inspection of the residence, Deputies may conduct a protective sweep of the entire residence, including non-participants' quarters. Protective sweeps should be conducted based on articulated facts by a program Deputy or law enforcement officer, which indicate that there is another person(s) on the premises and the officer(s) has a reasonable belief that the other person(s) may pose a threat to them.
  - g. Deputies should ask occupants if there are any weapons in the residence and ascertain the type and location of the items. If weapons are present, the Deputies shall decide if it is safe to proceed and if there is a need to continue.
  - h. Any illegal contraband or evidence located within the scope of a search will be handled in accordance with Deputies' training.

J. WARRANTLESS ENTRIES / SEARCHES

1. Because case law regarding search and seizure is constantly changing and subject to interpretation by the courts, each member of this department is expected to act in each situation according to current training and his/her familiarity with clearly established rights as determined by case law.
2. Whenever practical, Deputies are encouraged to contact a supervisor to resolve questions regarding search and seizure issues prior to electing a course of action.
3. Deputies are cautioned that a search warrant may be needed before entering a residence or other place to search unless lawful, warrantless entry has already been made.

Examples of law enforcement activities that are exceptions to the general warrant requirement include, but are not limited to, searches pursuant to the following:

- a. Valid consent verbally and through a signed EHD agreement;
  - b. Incident to a lawful arrest;
  - c. Legitimate community caretaking interests;
  - d. Vehicle searches under certain circumstances; and/or
  - e. Exigent circumstances
4. Should a participant choose to revoke the consent to search clause of the EHD agreement, that participant shall be returned to jail to complete the remainder of his/her sentence.

K. ESCAPES

1. Escapes will trigger the following sequence of events:
  - a. CAF staff will identify the escapee and determine the location and time of the first cutting/tampering of the bracelet strap or rendering the bracelet strap and/or monitor inoperable.
  - b. Notification will be made to the CAF Sergeant, CAF Lieutenant, or next level of supervision.
  - c. CAF staff will attempt to contact the inmate utilizing all contact telephone numbers available.
  - d. CAF staff will advise Dispatch and the affected law enforcement agencies of the escapee and his/her identifying information.
  - e. CAF staff will complete a Be-On-the-Lookout (BOLO) and forward this information to Dispatch and appropriate law enforcement agencies.
  - f. CAF staff will complete a warrant request notification to the courts for the issuance of a warrant for the current case.

- g. CAF staff will complete an Incident and/or Crime Report as soon as practical, identifying all the steps performed in the escape procedure before the end of their shift.

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