



Kern County Sheriff's Office
Policies and Procedures

TITLE: ELECTRONIC MONITORING PROGRAM		NO: J-3500	
APPROVED: Donny Youngblood, Sheriff-Coroner			
EFFECTIVE: April 12, 2012	REVIEWED: 08/12/2022	REVISED: 08/11/2022	UPDATED: 08/11/2022

MISSION STATEMENT

The Kern County Sheriff's Office is committed to operating an Electronic Monitoring Program that maintains the highest public confidence, credibility, and public safety.

POLICY

The Electronic Monitoring Program (EMP) is an alternative program to incarceration. Not all applicants are acceptable for the Electronic Monitoring Program. A thorough background investigation is completed on each applicant to assess any apparent threat to the community or likelihood of re-offending. Qualified applicants will be assigned to home detention, with monitoring and compliance accomplished by electronic monitoring technology and EMP Officers. Inmates assigned to this program will remain on an in-custody status even though they will be at home. When the inmate is sentenced or has served sentenced time the inmate will return to the EMP office for monitor removal.

GOALS AND BENEFITS

The Kern County Sheriff's Office Electronic Monitoring Program can be an effective tool in both assuring community safety and reducing jail populations. The goals and benefits of the program are:

- The opportunity to objectively balance public safety against the constitutional rights of a defendant pending trial.
- Allow program defendants to continue their education and/or employment which will enable them to support themselves and their families, maintain family ties, and participate in appropriate counseling and programming as necessary while awaiting trial and after sentencing.
- Provide the court with an opportunity to evaluate a defendant's pre-conviction supervision compliance.
- Lower the County's cost of incarcerating individuals who can be safely released and monitored in the community.

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PRETRIAL ELECTRONIC MONITORING per PC 1203.018

Penal Code section 1203.018 authorizes the Sheriff's Office, with approval from the Board of Supervisors, to operate an Electronic Monitoring Program for inmates being held in lieu of bail. In order to qualify for participation in an Electronic Monitoring Program pursuant to this section, the inmate must have no holds or outstanding warrants. Additionally, one of the following two circumstances must apply:

- The inmate has been held in custody for at least 30 calendar days from the date of arraignment pending disposition of **only** misdemeanor charges;
- The inmate has been held in custody for at least 60 days from date of the arraignment for felony charges.

The Board of Supervisors, in consultation with the Sheriff and District Attorney, may prescribe reasonable rules and regulations under which an Electronic Monitoring Program pursuant to this section may operate. As a condition of participation, the inmate shall agree to give his or her consent in writing to participate and shall agree in writing to comply with the rules and regulations of the program. The rules and regulations shall be given to every participant and made available to any participant upon request.

The Board of Supervisors and the Sheriff's Office shall review the rules and regulations annually.

A person shall be eligible for participation in the Sheriff's Office Electronic Monitoring Program if the person meets the criteria for release under this section and the person's participation is consistent with the rules and regulations prescribed by the Board of Supervisors or the administrative policy of the Sheriff's Office. There is no requirement that the Sheriff's Office allow a person to participate in the program if it appears that the person has not satisfactorily complied with reasonable rules and regulations while in custody.

The Sheriff's Office shall have sole discretionary authority to permit program participation as an alternative to physical custody. The Sheriff's Office may permit electronic monitoring participants to seek and retain employment, attend psychological counseling, educational or vocational training classes, or seek medical and dental assistance. Willful failure of the program participant to return to the designated place of detention, or unauthorized departures from the designated place of detention is punishable pursuant to PC 4532, Escape.

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-------------------------------------	--------------------------------	-------------------------------	-------------------------------



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Whenever the EMP Officer has reasonable cause to believe the participant is not complying with the rules or conditions of the program, or that the electronic monitoring devices are unable to function properly in the designated place of confinement, the EMP Officer may, without a warrant of arrest, retake the person into custody. All persons removed from program participation shall be notified in writing of the specific reasons for the removal. The notice of removal shall include the participant's appeal rights, as established by the program administrative policy.

Notwithstanding any other law, upon request of a local law enforcement agency with jurisdiction over the location where a participant is placed, the Sheriff's Office will provide the following information about participants:

- Name, address, date of birth, gender, and ethnicity;
- Offense(s) alleged to have been committed by the participant;
- Period of time the participant will be on electronic monitoring;
- Whether the participant successfully completed the program.

POST SENTENCING ELECTRONIC MONITORING per PC 1203.016

Penal Code section 1203.016 authorizes the Sheriff's Office, with approval from the Board of Supervisors, to operate an Electronic Monitoring Program for inmates committed to county jail. Inmates may voluntarily participate or involuntarily be placed into a home detention electronic monitoring program during their sentence in lieu of confinement in county jail or other county correctional facility.

The Board of Supervisors, in consultation with the Sheriff, may prescribe reasonable rules and regulations under which an Electronic Monitoring Program pursuant to this section may operate. As a condition of participation, the inmate shall give his or her consent in writing to participate in the program and shall in writing agree to comply, or for involuntary participation, the inmate shall be informed in writing that he or she shall comply with the rules and regulations of the program. The rules and regulations shall be given to every participant and made available to any participant upon request.

The Board of Supervisors and the Sheriff's Office shall review the rules and regulations and the program administrative policy annually.

A person shall be eligible for participation if the EMP Officer concludes the person meets the criteria for release under this section and the person's participation is consistent with the rules and

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-------------------------------------	--------------------------------	-------------------------------	-------------------------------



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regulations prescribed by the Board of Supervisors or the administrative policy of the Sheriff's Office. There is no requirement the Sheriff's Office allow a person to participate in the program if it appears that the person has not satisfactorily complied with reasonable rules and regulations while in custody.

The court may recommend or refer a person to the Electronic Monitoring Program for consideration for placement in the home detention program. The recommendation or referral of the court shall be given great weight in the determination of acceptance or denial.

The Sheriff's Office shall have sole discretionary authority to permit program participation as an alternative to physical custody. All persons referred or recommended by the court to participate in the electronic monitoring program pursuant to this section that are denied participation, or all persons removed from program participation, shall be notified in writing of the specific reasons for the denial or removal. The notice of denial or removal shall include the participant's appeal rights, as established by the program administrative policy.

The Sheriff's Office may permit electronic monitoring participants to seek and retain employment, attend psychological counseling, educational or vocational training classes, or seek medical and dental assistance. Willful failure of the program participant to return to the designated place of detention, or unauthorized departures from the designated place of detention is punishable pursuant to PC 4532, Escape.

Whenever the EMP Officer has reasonable cause to believe the participant is not complying with the rules or conditions of the program, or that the electronic monitoring devices are unable to function properly in the designated place of confinement, the EMP Officer may, without a warrant of arrest, retake the person into custody to complete the remainder of the sentence.

Notwithstanding any other law, upon request of a local law enforcement agency with jurisdiction over the location where a participant is placed the Sheriff's Office will provide the following information about participants:

- Name, address, and date of birth;
- Offense(s) committed by the participant.
- Period of time the participant will be on electronic monitoring;
- Whether the participant successfully completed the program.

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PROCEDURE

The Detentions Bureau Classification Unit will screen inmates who have been arraigned. Each inmate will be reviewed on an individual basis. Acceptance or denial shall not be based on gender, race, religion, disability, political beliefs, or national origin.

The Classification Officers will forward the qualified inmate an application packet. It will be the inmate's responsibility to complete and sign all required forms provided with the application and return the application to Classification Unit staff.

The completed packet will be forwarded to the EMP Office. The EMP Officers will review the application and approve or deny the applicant. Upon initial approval all adult residents of the defendant's home must be notified of the terms and conditions of the program. Upon final approval, inmates qualifying for the program will be scheduled for release as early as reasonably possible during normal operational business hours.

At the time the defendant is released to the Electronic Monitoring Program, the Classification Unit will electronically re-house the defendant in CJIS. The new housing locator for the defendant will be entered as "**SOCRFEMP**" in the facility section of the housing locator.

It will be within the court's discretion to allow time served on Pre-Sentence Electronic Monitoring to be counted as custody credits pursuant to PC 2900.5, Credit for Time Served. A waiver may or may not be deemed necessary for the defendant to sign.

Electronic Monitoring Program participants who violate the rules and conditions of this program will be returned to custody to await their trial or complete the remainder of their sentence. Once the participant has been brought to the Kern County Jail, they will be rehoused into the jail facility under their prior booking number, by making the necessary housing status change in CJIS.

Electronic Monitoring Program violators will not be considered for other programs such as Sheriff's Parole or Work Release.

ELIGIBILITY

EFFECTIVE: April 12, 2012	REVIEWED: 08/12/2022	REVISED: 08/11/2022	UPDATED: 08/11/2022
-------------------------------------	--------------------------------	-------------------------------	-------------------------------



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All inmates that have applied to and have been accepted by an in-home treatment program that is sponsored by the Kern County Community Corrections Partnership Committee are eligible for consideration into the EMP.

The exclusionary criteria for the pretrial and post sentence programs will be the same. The classification officers will consider all relevant information for determining eligibility, including but not limited to the following:

- Behavior during the application process and previous incarceration
- Current charges

Certain **mandatory** criteria will be used to exclude defendants from the EMP. (Except participants being released into home treatment programs). The exclusionary criteria are as follows:

- Any defendant with a hold, including but not limited to, immigration and state parole, violations of probation, out-of-county or out-of-state warrants.
- Any defendant that, if convicted as charged, would be statutorily ineligible for probation, pursuant to 1203(k) of the Penal Code.
- Any defendant charged with an offense listed in Section 667.5(c) of the Penal Code.
- Any charged offense in which the defendant would be required to register under Section 290 or 457.1 of the Penal Code.
- Any defendant charged with a crime where a gun was used as an instrument of the crime (Excluding 12025 and 12031 PC).
- Any defendant charged with a gang enhancement.

Upon receipt of completed application packets the EMP Officer will take the following steps to determine if the applicant is acceptable for the program:

- Ensure accuracy of paperwork
- Complete a warrant check
- Run a criminal history check
- Check the content of the pre-sentence probation report when one is available
- Request additional information if required from applicant, victim, probation, the court, Department of Justice, or other law enforcement agencies

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- Confirm the viability of the applicant’s residence
- Confirm employment or student status
- Check Parole/Probation compliance
- Determine if drug and/or alcohol testing is required
- Ensure release of liability form is signed by victim, and witnessed by officer, if participant and victim reside together
- Evaluate and analyze all information received to assess whether the applicant qualifies to participate in the program under the criteria articulated in this policy and the Penal Code.

The applicant **may** be denied participation in the program if he or she has been convicted of, or has a history of any of, but not limited to, the following:

- Crimes of violence
- Past or current weapons charge(s)
- Stalking
- History of escalation of crime(s)
- Escape risk
- Gang involvement
- Resides with victim
- Severity of past/current charges/convictions
- Risk to community and/or victim
- Prior convictions for violent felonies, as defined in subdivision (c) of Section 667.5, or a serious felony, as defined in subdivision (c) of Section 1192.7 will be given due consideration when determining if an inmate will be allowed to participate in the Electronic Monitoring Program.

In the event an applicant is denied the program by an EMP Officer, the EMP Sergeant will review the reason for denial. If the decision to uphold the denial is made, the applicant will receive a denial letter.

ELECTRONIC MONITORING

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Various forms of Electronic Monitoring Equipment are available through EMP. The form or forms of electronic monitoring devices used will be at the sole discretion of the Sheriff's Office.

Once approved for the program, EMP staff will schedule an appointment for the participant to begin the program. At that appointment the participant will be given the program rules, equipment instructions, and equipment responsibility acknowledgement.

Each participant will be issued an Electronic Monitoring Program Rule Book and will be made aware that random visits by staff to the participant's home, work, school, and treatment locations will be conducted. In addition, the participant will be advised of their obligation to attend any appointments scheduled by the EMP Officer, and any additional condition mandated by the court, Sheriff's Office, or Probation Department, such as random alcohol and/or drug testing.

It is important that each applicant discuss their participation in the program with their family members or others who may be living in the home. Random on-site visits by Sheriff's Office Staff may cause an inconvenience to the household so staff should exercise discretion when making such visits.

Each participant will have a schedule set which includes permission for time out of the place of confinement for employment, education, court ordered classes, and scheduled medical appointments. In addition to the set curfew, separate arrangements can be made for the out of the ordinary, verifiable times away from home such as court dates, emergency medical appointments, employment overtime, etc., on a case by case basis. Request for temporary schedule changes will be made by the participant at least 24 hours prior to the requested change. When approved, these changes will be entered into the computer system to preclude invalid violations. Any schedule change will be verified, in writing, by the participant, and given to the assigned EMP Officer. (i.e. doctor's note, pay stub, court documents, etc.)

Errand time may be granted for program compliance and responsible behavior. After one week on the program, up to three continuous hours per week of errand time may be earned. Errand time must be taken in a single block prior to 8:00PM. All personal appointments such as doctor, dentist, haircuts, etc., must be conducted during this block of time. Errand time will only be scheduled by the assigned EMP Officer, or in his/her absence another EMP Officer within the unit. This errand time is a privilege and may be taken away for cause.

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Participants must go directly to and from their place of employment/school. They may NOT STOP to visit anyone or run errands. Any exceptions will require prior approval from the assigned EMP Officer, or in his/her absence another EMP Officer within the Unit.

If there is any change in employment such as demotion, promotion, lay off, or dismissal, the participant must immediately notify the assigned EMP Officer, or in his/her absence another EMP Officer within the unit.

Overtime work is permitted only when requested in advance and approved by the assigned EMP Officer, or in his/her absence another EMP Officer within the unit. If overtime is required, the employer must contact the EMP Office by telephone and fax follow up. The fax must be received on company letterhead, indicating the hours the participant is being requested to work. The original letter shall be signed by the participant's supervisor and must be given to the EMP Officer at the next scheduled appointment.

Participants will not have any alcohol, empty alcohol containers, alcohol collectibles, illegal drugs, non-prescribed drugs, drug paraphernalia, or weapons of any kind under their control or in their residences while on the program. Participants will not be under the influence of any alcohol or illegal drugs, and they must not be in an area where the use of alcohol, drugs, or illegal activity is taking place.

Participants are responsible for the electronic monitoring equipment assigned to them. The equipment may not be maliciously destroyed, tampered with, altered, or defaced. In addition, those that fail to return the equipment will be charged with theft.

Participants may not change residences while on the program without prior approval from the assigned EMP Officer, or in his/her absence another EMP Officer within the Unit. If approval is granted the move must occur during normal business hours and will count as the week's errand time.

EMP staff may impose restrictions on participants with regard to visitors in participants' homes.

Participants must not associate with or reside with anyone with outstanding warrants.

Participants should have and always keep with them, a photo identification such as a driver's license or identification card issued by a government agency.

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In the event the electronic monitoring device fails or is unable to function properly in the designated place of confinement, the assigned EMP Officer or their designee may retake the participant into custody without a warrant of arrest.

Motor vehicles will not be operated unless the participant is legally licensed to do so. Any vehicle driven by a participant must be registered and insured. Documented proof will be kept on file. No deviation from approved transportation will be allowed without prior approval.

VIOLATIONS/DISCIPLINE/REMOVAL/ESCAPE

In the event a participant violates a program rule, EMP Officers will review the violation. Depending on the severity of the violation a determination will be made as to the disciplinary action to be taken. EMP Officers may handle minor violations of the rules informally by counseling and advising the participant of expected conduct or with a temporary restriction.

Participants must not lie or falsely represent the truth to any law enforcement officer or civilian staff member.

Participants must not leave their place of confinement, whether it is their place of residence, employment, or education location without authorization from an EMP Officer. In the event the participant fails to return to his/her place of confinement without permission or their whereabouts are unknown to EMP staff, they shall be considered an escapee. EMP staff will initiate an "Escape Report" for a violation of PC 4532(b)(1), pursuant to Section 1203.016 and 1203.018 of the California Penal Code, and the EMP Officer will file a criminal complaint.

APPEAL PROCESS

Penal Code sections 1203.016 and 1203.018 require the Sheriff's Office to have an appeal process for inmates that have been terminated from the electronic monitoring program. Inmates may appeal their removal from the program by completing a grievance form. The grievance will be directed to the EMP Sergeant. The EMP Sergeant will review all pertinent information and render a decision, in writing, within 10 working days. This decision is final; there will be no further appeal.

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