

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA
PROBATION OFFICE

November 16, 1987

DORIS HALLIDAY-CANNATA
CHIEF PROBATION OFFICER

U.S. COURT HOUSE
450 GOLDEN GATE AVENUE
BOX NUMBER 36057
SAN FRANCISCO 94102
415-556-0200
FTS: 556-0200

William W. Wilkins, Jr.
Chairman
United States Sentencing Commission
1331 Pennsylvania Avenue, N. W.
Suite 1400
Washington, D. C. 20004

Dear Judge Wilkins:

I am taking a little time off from studying the guidelines to write to you about a matter of some local importance to us. Several months ago, we were fortunate to be able to join with our local contract halfway house in developing an electronically-monitored home detention program.

The program, available to our judges as a special condition of probation, is intended for use in cases that otherwise would be considered for CTC, jail or short prison sentences. Because of that criterion the Bureau of Prisons agreed to subsidize the cost of the program -up to its full \$11 per day cost -- for any participant unable to pay for himself or herself.

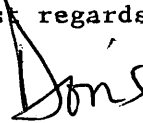
Our program is a small one and currently accommodates only four or five detainees. We have room for up to twenty. The halfway house itself purchased the electronic monitoring equipment and will incur substantial losses unless the count rises. We are in danger of losing the program as a sentencing option, then, unless courts retain the option to consider home detention for the types of cases eligible for subsidization by the Bureau of Prisons.

I understand that home detention was excluded as a community confinement alternative for the minimum 1 to minimum 6 month population of guideline sentences primarily because the Commission never received enough data about home detention to make a confident decision to include it. With that fact in mind, we are sending you a report on our program prepared by Linda Connelly, regional director of our contract halfway house corporation along with a copy of our training pamphlet. Ms. Connelly will send you additional data on the program as it is available.

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We sincerely hope that the Commission will be in a position to consider home detention as a community confinement alternative in the near future. Meanwhile, I would be happy to attempt to answer any questions the Commission might have. Please feel free to telephone me here or, on November 18-19, 1987, at the Probation Division in Washington.

Best regards,

A handwritten signature in dark ink, appearing to read "Doris", written over the typed name.

DORIS HALLIDAY-CANNATA
Chief U. S. Probation Officer

DHC:sg
Encls.

ECI Oakland's Electronic Monitoring Program

Eclectic Communications, Inc. (ECI) is currently operating a home detention program in conjunction with the Federal Bureau of Prisons and U.S. Probation for the Northern District of California. This is the first such program for federal clients and we are pleased with the initial results. At this time, clients eligible for participation include probationers and parolees, in lieu of revocation. In order for the program to impact the spiraling costs of incarceration, participants would ordinarily be serving time in a halfway house or institution as a condition of their probation or parole. It is not being used as an adjunct to probation or parole. Additionally, clients are expected to pay all or part of the daily cost of \$11.00 per day.

ECI has been operating the electronic monitoring program since August, 1987, when the program began supervision of its first client. During the first three months of operation, the home detention program has supervised six clients. While these are not large numbers, they have begun to demonstrate some interesting characteristics and benefits of this alternative sentence. Five of the six clients are head of households supporting at least one dependent child. One of the clients is a single mother with two very young children, and this program afforded her the opportunity to continue supporting her family both financially and emotionally. Three of the clients are volunteering their time to local community service organizations. All of the clients are helping to support the cost of operation via payment of a supervision fee. Hence, the remaining cost of operation per client has been extremely low -- only about \$2.80 per client. Overall, clients appear thankful to have been granted this chance and therefore have been motivated to make their commitment a successful one.

Eligibility criteria have been developed as guidelines for potential referrals. Please refer to the attached eligibility checklist. This checklist is completed by the Probation Officer and the Program Director prior to a recommendation being made to the Judge.

The electronically monitored home detention program utilizes an electronic bracelet (i.e. transmitter) which is attached to the client's wrist or ankle. The transmitter emits a radio signal which is picked up by a monitor attached to the client's

phone. This monitor communicates with the central computer located at ECI, Oakland's halfway house, through the telephone lines. The computer will provide a continuous printout of when the client enters and exists the home, and calls the person intermittently for further verification and accountability. The computer will register any tampering with the equipment, power outages, unplugging the monitor, phone service disruption, and other problems.

A permanent, non-mobile telephone is a requirement of participating in this program. The client may not have call forwarding on the phone and they are required to bring in the monthly phone bill to the Program Director for verification.

Each client is allowed to attend work, counseling and other relevant meetings. The hours a client may be away from the home is determined by the client and the Program Director with input from the USPO. Any emergency must be documented and attempts should always be made to receive prior approval. It is anticipated that programs will remain the same throughout the sentence period. Sufficient time will be allotted for the routine needs such as grocery shopping. Once a program plan has been established, the client will be expected to remain in their home at predetermined times. The Program Director will show the client the exact limits of the home.

By voluntarily participating in this program, the client agrees to random visits by the USPO and program staff. The clients must be willing to submit to random urinalysis tests and all other program conditions outlined by the court, U.S. Probation, and the program staff.

A mandatory prerequisite of the home detention program is that the client maintain fulltime employment. The employer will be notified of the client's participation and will be asked to notify the halfway house staff of any problems (i.e. lateness, absences, promotions, or other changes in status). The client must bring in pay stubs on a regular basis each time they are paid.

In the Oakland facility, the electronic monitoring computer is watched twenty-four hours a day, seven days a week, by the halfway house staff. Whenever a home detention violation occurs, there is a report immediately printed out by the computer (see attached printout). When a violation is received, the staff call the client at home to investigate the situation and circumstances. If necessary, an on-site visit will be made to the client's home. Since clients are told that any violation,

regardless of degree, could result in removal from the program, they have been reluctant to test the programs limits. To date, there has been only one violation which occurred when a client returned home from work ten minutes late due to an unforeseen traffic jam. The clients have lead responsible lives and been responsive to the programs structure, hence the program has been running smoothly.

In conclusion, we are very enthusiastic about home detention. With more stringent sentencing guidelines, prison overcrowding will continue to be a major concern for criminal justice professionals. Home detention in fact punishes the client by restricting movement in the community, but forces them to continue working, supporting the family, paying taxes, contributing community service time, and compensating the victim with restitution payments. By having the clients pay for all or part of the cost, the expense to the government is significantly reduced and holds the client much more accountable for the crime. While not all offenders are appropriate for home detention, for those that are, using home detention as an alternative to incarceration can be a significant and relevant aspect of the criminal justice system, benefiting the prison system, the client, and the community.

ELIGIBILITY CHECKLIST FOR HOME DETENTION

Criminal Background and History:

	YES	NO	COMMENTS
1. Pattern of Violence			
2. Child or Spouse Abuse			
3. Danger to Community or Specific Victim			
4. Major Drug Trafficker			
5. History of Flight or Failure to Appear			
6. Fraudulent Use of Telephone or U.S. Mail			
7. Pending Detainer			
8. Convicted of Sexual Offense			

NOTE: To be eligible for participation in the Home Detention program, the answers to all the above noted questions must be NO. Any exceptions must receive approval from the Supervising USPO, and ECI Program Director.

=====

Current Status and Information:

	YES	NO	COMMENTS
1. Current Approved Full Time Employment			
2. Approved Stationary Residence			
3. Non-Mobil Telephone w/o Call Forwarding			
4. Prison or Halfway House Bound			
5. Willing, if able, to Pay Fee on Scale			
6. Agree to Abide by All Conditions			
7. Agree to Notification of Employer			
8. Family/Roommates Agree to Conditions			
9. Will Bear Additional Telephone Expenses			

NOTE: To be eligible for Home Detention program, the answers to the above questions must be YES. Any exceptions must receive approval from both the Supervising USPO and ECI Program Director.

[illegible]

16:29:12 07/09/87 Thursday UNIT #: 130 WARNING

RUSK WHIPPS's MONITOR has not sent the required test signal.
The address is: 1085 ROLLINS ROAD #318 BURLINGAME
The phone # is: 415-348-5904

18:54:26 07/09/87 Thursday UNIT #: 130 OPENING ABOVE ACCOUNT

RUSK WHIPPS has activated the Monitor.
The address is: 1085 ROLLINS ROAD #318 BURLINGAME
The phone # is: 415-348-5904

23:02:38 07/09/87 Thursday UNIT #: 130

VIOLATION

RUSK WHIPPS has RETURNED HOME.
The address is: 1085 ROLLINS ROAD #318 BURLINGAME
The phone # is: 415-348-5904

**** VALID TIME LIMITS ****

MON	0700	2300
TUE	0700	2300
WED	0700	2300
THU	0700	2300
FRI	0700	2300
SAT	0700	2359
SUN	0700	2359

23:06:54 07/10/87 Friday UNIT #: 130

VIOLATION

RUSK WHIPPS has RETURNED HOME.
The address is: 1085 ROLLINS ROAD #318 BURLINGAME
The phone # is: 415-348-5904

**** VALID TIME LIMITS ****

MON	0700	2300
TUE	0700	2300
WED	0700	2300
THU	0700	2300
FRI	0700	2300
SAT	0700	2359
SUN	0700	2359

07/10/87 UNIT # 130

DAILY SUMMARY REPORT
for
RUSK WHIPPS
1085 ROLLINS ROAD #318 BURLINGAME
415-348-5904

Valid times for this date are: 0700 TO 2300

03:04:06	TEST	VALID
07:05:26	TEST	VALID
08:45:54	LEFT HOME	VALID
11:07:12	TEST	VALID
15:08:33	TEST	VALID
16:52:44	RETURNED HOME	VALID
19:10:21	TEST	VALID
21:42:32	LEFT HOME	VALID
23:06:54	RETURNED HOME	VIOLATION
23:13:39	TEST	VALID

THE UNITED STATES SENTENCING COMMISSION

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November 19, 1987

Ms. Doris Halliday-Cannata
Chief U. S. Probation Officer
U. S. Courthouse
450 Golden Gate Avenue
Box Number 36057
San Francisco, California 94102

Dear Ms. Halliday-Cannata:

Thank you for sending me information on the home detention program in your district. While the guidelines do not include home detention within the definition of community confinement, it is something to which the Commission gave considerable attention. As you point out, there was little information available about the effective use of home detention on the federal level. Few districts had in place a program like the one outlined in your letter and attachments.

We will be considering amendments to the guidelines. Your input and additional data on how the program is working in the Northern District of California would be very helpful to the Commission.

Thank you for writing. If the Commission may be of any assistance to you or your staff, please don't hesitate to call.

With personal regards, I am

Sincerely,

A handwritten signature in cursive script that reads "Billy Wilkins".

William W. Wilkins, Jr.
Chairman



eclectic communications, inc.

ELECTRONIC MONITORING

HOME DETENTION

Oakland Facility

205 MacArthur Boulevard * Oakland, CA 94610 * (415) 839-9051

INDEX

1. Historical, Legal, and General Guidelines of Electronic Monitoring
2. Program Procedures
3. Eligibility Checklist for U.S. Probation Officer
4. Program Handbook
5. Orientation Paperwork



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***HISTORICAL, LEGAL,
AND GENERAL GUIDELINES
OF
ELECTRONIC MONITORING***

HISTORICAL PERSPECTIVE OF

ELECTRONIC MONITORING DEVICES

The beginning of electronic monitoring devices was noted some twenty years ago when researchers announced the development of a portable device for tracking the location of individuals. Between the years of 1964 and 1970, monitoring devices were used to track parolees and mental health patients. Although the concept of electronic monitoring of offenders is not new, the advances in technology, overcrowding in institutions and finances have led to the resurgence of this technology.

Currently, the two most widely used systems utilizing telephone lines are the active and passive systems. These are outlined below:

Active (continually monitors the individual).

The subject is required to wear a transmitter which emits a radio signal that is picked up by a monitor attached to their phone. The monitor communicates with a central computer via the telephone lines. The computer provides a printout on when the person enters and exits his home and may also call a specific person to report violations for purposes of verification.

Passive (intermittently monitors the individual).

In this program a computer periodically calls the subject during curfew hours. The subject is asked to identify himself, possibly answer a personal question, and then insert a wrist worn identification bracelet into a receiver attached to the telephone. The receiver sends a message back to the central computer. If the telephone is not answered or bracelet not inserted, the computer registers a violation and will call a specific person. The recorded messages are also available for review daily by a designated person.

In a recent report by the Criminal Justice Policy Council, it was discovered that there were relatively few operational programs in the United States. The committee who wrote the report examined ten agencies who are currently using the electronic devices and found the following:

- * The system is being used on misdemeanants and felons alike.

- * Primary reason for utilizing the system is due to overcrowding conditions.
- * The length of sentence to the monitoring device range from thirty days to one year.
- * Clients pay at least a portion of the cost of surveillance.
- * Success rate has been extremely high. Failure rate at county level has been less than ten percent.
- * All users have had positive press coverage.
- * Primary benefits have been reduction in jail overcrowding and cost savings to the correctional system.

It is clear that the electronic monitoring system is a solid alternative to a more traditional incarceration. The reasons are logical for considering this avenue, it diverts persons who are capable of functioning under community supervision out of the prison system. There is significant cost savings to the correctional system and a humanistic benefit will be achieved. As the Criminal Justice Policy Council report pointed out, "It is neither humanistically nor economically beneficial to hold people in prison or jail who do not need to be there."

LEGAL ISSUES IN HOME DETENTION

Home detention, enhanced by the use of an electronic monitoring device, is too new a concept to have generated much legal discussion. No law exists directly on point that would help resolve the issue of whether such a sentence would violate rights guaranteed by the Constitution. An effort to apply existing case law encourages the interpretation of home detention as either a condition of a probation period or a discrete form of custody.* Each interpretation is briefly examined below.

As a special condition of probation. Conditions of probation may be imposed pursuant the Title 18 USC 3651, which empowers the court to suspend a sentence and place the defendant on probation "for such period and upon such terms and conditions as the court deems best." The court is afforded broad discretion in fixing conditions of probation, and conditions may be declared invalid only upon a showing of abuse of discretion. Fiore v. U.S. (1982) 696 F.2d 205.

The Court may uphold a condition of probation that intrudes upon a person's right of privacy because of that person's status as a probationer. The individual's ordinary right to privacy may be diminished by conditions of that person's probation. U.S. v. Rea (1982) 678 F.2d 382.

Many cases have centered on claims that probation conditions abridge Fourth Amendment rights against unreasonable search and seizure. Porth v. Templar (1971) 453 F.2d 330, a Tenth Circuit case, noted that protection of society and rehabilitation of the probationer might violate conditions that would otherwise violate fundamental rights.

Cases that have addressed these constitutional issues in the probation context have held that the probation status itself properly incorporates some reasonable abridgment of probationer's fundamental rights. Any probation condition, however, that would serve to penalize a probationer who is indigent might reasonably be expected to encounter difficulty in meeting equal protection challenge under the Fourth Amendment. (See Bearden v. Georgia 103 S.Ct 2064.)

Part of our proposal suggested that whenever possible, the detainee pay the cost of his detention program. While case law

*One California Court of Appeals held last year that home detention as practiced in Butte County did not constitute "custody". Conditions of that home detention required probationer to be at home when not at work, school or counseling, or excused by the probation officer. People v. Reinertson (1986) 223 Cal. 670.

generally supports broad probation conditions, any home detention program which requires subsidization by the detainee certainly will need to include a plan for indigents as well. Therefore, a plan to accommodate a detainee unable to contribute to the costs of the program will be a vital ingredient of our program.

Electronic enhancement of the home detention program will increase its reliability and efficiency; but will increase the controversial nature and costs of the program as well. While not much is available on electronic surveillance devices in published opinions, U.S. v. Karo (1984) 104 S.Ct 3296 upheld the use of "beeper" devices by law enforcement personnel against a Fourth Amendment challenge provided that it revealed only such information as might have been available through visual surveillance. Since the electronic component of this home detention program will reveal only whether or not probationer is home, it seems reasonably safe to assume that it provides information that would be available to probation officers practicing an unusually diligent surveillance of that probationer.

As a form of incarceration. An interpretation of home detention as a form of incarceration might lead to challenges asserting that the electronic monitors violate rights outlined in the "probation" section above. Viewing one's home as one's cell would be necessary to gain any instruction from current case law, as no law yet exists addressing most issues of home detention.

Fourth Amendment search and seizure challenges by prisoners were backhanded by the Supreme Court in Hudson v. Palmer (1984) 468 U.S. 517, which held that the Fourth Amendment specifically does not protect an inmate from search and seizure in his cell. Assertions of the home detainee's right to privacy in the context of home detention might be answered by the same way. Success against legal challenge of the electronic monitoring device inherent in our home detention program might depend to some extent upon the willingness of a court to accept the metamorphosis of the detainee's home -- a place where society normally supports one's reasonable expectation of privacy -- to a quasi-cell, where society does not.

The device itself does little to disturb the detainee's privacy within his home; rather, it signals his presence there and absence therefrom. Home detention, then, probably affords the detainee much more privacy and much more Fourth Amendment protection than does traditional imprisonment.

As a type of incarceration, though, personal presence of officials within the detainee's home might be needed periodically. It seems that a contact between officials and the detainee waiving detainee's privacy and search and seizure rights for the limited purpose of reasonable periodic on-site visits would be helpful.

HOME DETENTION GUIDELINES

Purpose:

The home detention program is a sentencing alternative available to eligible defendants who would otherwise be incarcerated. The program will include 1) Probationers who would normally be serving short sentences in a Community Treatment Center (CTC), jail, or camp type setting who would participate in home detention as a condition of probation and 2) Clients currently on probation who have violated their conditions and in-lieu-of revocation, are placed on home detention as a further condition of probation. This would be an intermediate step between probation and custody.

Role of the Bureau of Prisons:

1. Responsible for final approval for participation in program.
2. Coordinate with U.S. Probation and CTC Staff.
3. Monitor client movement on Sentry.
4. Forward Judgment and Probation/Commitment Order to CTC.
5. Process billing.

Role of United States Probation:

1. Determine eligibility for parolees and probationers.
2. Review rules of program with the client to determine willingness to participate.
3. Refer to CTC through Bureau of Prisons to confirm eligibility and space availability.
4. Recommend placement to court.
5. Provide copy of Judgement and Probation/Commitment Order and Presentence Investigation report to Bureau of Prisons.
6. Review Presentence Investigation with CTC staff.

7. Participate in teamings.
8. Supervise client as required.
9. Follow up violations with court.

Role of the Community Treatment Center:

1. Conduct orientation and determine program plan with client and USPO.
2. Monitor client while in program.
3. Assure compliance with rules and regulations.
4. Conduct surprise visits and employment verifications.
5. Coordinate and communicate with referring agency.
6. Follow through with violations.
7. Collect monthly client supervision fee and bill Bureau of Prisons.
8. Provide statistics and coordinate research.
9. Prepare release paperwork.
10. Participate in revocation proceedings as required.

Role of Courts:

1. Court can impose home detention as a special condition of probation for eligible defendants.
2. Order should recommend CTC placement with home detention as a condition.
3. Advantageous for the court to complete the AO 235 specifying electronic surveillance as a basis for the recommendation.

PROGRAM PROCEDURES

REFERRAL PROCEDURE

1. The USPO will determine the eligibility and appropriateness for the Home Detention program during the Pre-Sentence Investigation.
 - a. Complete two page "Eligibility Checklist"
 - b. Complete home visit and verify employment
 - c. Give potential client overview of Home Detention program and determine the client's willingness to participate
 - d. Determine appropriate amount for the Supervision fee and agreement to pay
2. The USPO contacts both ECI Program Coordinator and Community Programs Manager to determine approval and space availability. Ideally, the "Eligibility Checklist" is sent to the Program Coordinator for review prior to acceptance. A tentative arrival date is determined by ECI.
3. A recommendation is made to the Judge and an Order is granted placing the client in the halfway house with Home Detention as a condition of probation.
4. Immediately after sentencing, the client and USPO sign conditions of placement and the client is notified of the reporting date to ECI, Oakland.
5. The Bureau of Prisons, CPM, and ECI are given a copy of Form F-1, the day of sentencing, while waiting for the Judgement Order from the Court. The Judgement and Probation/Commitment Order is forwarded to the CPM and ECI as soon as it is received by USPO.

ORIENTATION PROCEDURE

1. Client arrives at ECI, Oakland facility at pre-arranged reporting date.
2. Client is given a thorough overview of the program, it's rules and regulations, and requirements. The client then signs all orientation paperwork.
3. In accordance with agreement made with USPO, the first rent payment is collected at this time.
4. Program schedule is established and entered into the computer.
5. Client and Program Coordinator proceed to the client's home where the electronic monitoring equipment is installed and tested.
6. Within the first week of the client's participation in the program, a Team Meeting will be held. The Program Coordinator, the USPO, and the client will all be present for this meeting. Any modifications to the program plan and schedule will be made at this time, and entered into the computer.

VIOLATION PROCEDURE

1. A violation is defined as any action which violates the established rules and regulations of the Home Detention program.
2. When a staff member receives a violation on the computer, a phone call will immediately be made to the client. If the client is home, the problem causing the violation will be corrected and a note placed in the log stating there was a false violation. If the client can not be contacted, the Program Coordinator will be notified. A decision will be made as to other phone calls to be made and the need for a visit to the client's home.
3. All violations will be written up as disciplinary reports.
4. The USPO will be contacted and forwarded a copy of the report.
5. Any violation regardless of the degree of severity could result in probation revocation proceedings and removal from the program. The USPO will be notified and consulted concerning any removal from program.

ELIGIBILITY CHECKLISTS
for
U.S. PROBATION OFFICER

ELIGIBILITY CHECKLIST FOR HOME DETENTION

Criminal Background and History:

	YES	NO	COMMENTS
1. Pattern of Violence			
2. Child or Spouse Abuse			
3. Danger to Community or Specific Victim			
4. Major Drug Trafficker			
5. History of Flight or Failure to Appear			
6. Fraudulent Use of Telephone or U.S. Mail			
7. Pending Detainer			
8. Convicted of Sexual Offense			

NOTE: To be eligible for participation in the Home Detention program, the answers to all the above noted questions must be NO. Any exceptions must receive approval from the Supervising USPO, and ECI Program Coordinator.

Current Status and Information:

	YES	NO	COMMENTS
1. Current Approved Full Time Employment			
2. Approved Stationary Residence			
3. Non-Mobil Telephone w/o Call Forwarding			
4. Prison or Halfway House Bound			
5. Willing, if able, to Pay Fee on Scale			
6. Agree to Abide by All Conditions			
7. Agree to Notification of Employer			
8. Family/Roommates Agree to Conditions			
9. Will Bear Additional Telephone Expenses			

NOTE: To be eligible for Home Detention program, the answers to the above questions must be YES. Any exceptions must receive approval from both the Supervising USPO and ECI Program Coordinator.

ELIGIBILITY CHECKLIST FOR HOME DETENTION

Client Name: _____

Home Address: _____

Telephone _____

On-Site Completed and Approved: _____

Date

General Description of Home (Size, Occupants, Relationships)

Employers Name: _____

Address: _____

Telephone: _____

Client's Title: _____

Duties: _____

Does Client have a steady weekly schedule? YES NO

Verified and Approved: _____

Date

General Description of Employment (Supervisor involvement, any concerns, travel time from home, etc.)

SLIDING SUPERVISION FEE SCALE

GROSS INCOME MONTHLY	SUPERVISION FEE		PERCENTAGE	
	DAILY	MONTHLY	UPPER	LOWER
=====				
\$2,500 - Higher	\$11.	\$336.	13%	-
\$2,151 - \$2,499	\$10.	\$305.	12%	14%
\$1,801 - \$2,150	\$9.	\$275.	13%	15%
\$1,551 - \$1,800	\$7.50	\$229.	13%	15%
\$1,301 - \$1,550	\$6.	\$183.	12%	14%
\$1,101 - \$1,300	\$4.	\$122.	9%	11%
\$901 - \$1,100	\$3.	\$92.	8%	10%
\$701 - \$900	\$2.	\$61.	7%	9%
\$580 - \$700	\$1.50	\$46.	7%	8%
\$579 - Lower	\$0.		0%	-

DEDUCTIONS

1. Deduct \$150 from gross monthly income for each of client's first two children.
2. Deduct an additional \$50 from gross monthly income for the third child, and every additional child thereafter.

SAMPLE COURT ORDER

PROBATION

The defendant is committed to the custody of the Attorney General or his authorized representative for a term of _____ years. The execution of said sentence of imprisonment is hereby suspended and the defendant is placed on probation for a period of _____ years, upon the following special conditions.

The defendant is to reside in or participate in the program of a residential Community Treatment Center, or both, for a period of _____ days, to include its home detention program as directed by the U. S. Probation Officer. Defendant is to pay part or all of the cost of home detention, up to \$11.00 per day, as deemed reasonable by the probation officer.

PROGRAM HANDBOOK



eclectic communications, inc.

PROGRAM HANDBOOK

for

ELECTRONIC MONITORING

HOME DETENTION

Oakland Facility

205 MacArthur Boulevard * Oakland, CA 94610 * (415) 839-9051

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INTRODUCTION

Home Detention is a sentencing alternative available to eligible defendants who would ordinarily be incarcerated in a halfway house or an institution setting. The purpose is to maintain accountability of the client, as well as to enable the client to continue working and contributing to the welfare of his or her family. The program is considered to be a privilege, in lieu of incarceration, and it is expected that the client will adhere to the conditions of the program. Failure to cooperate will result in the removal from the home detention program, a possibility of probation revocation, and ineligibility for the program at any future time.

Home detention utilizes an electronic bracelet (i.e. transmitter) which is attached to the client's wrist or ankle. The transmitter emits a radio signal which is picked up by a monitor attached to the client's phone. This monitor communicates with the central computer located at ECI, Oakland's halfway house, through the telephone lines. The computer will provide a continuous printout of when the person enters and exits the home, and calls the person intermittently for further verification and accountability. The computer will register any tampering with the equipment, power outages, unplugging the monitor, phone service disruption, and other problems.

Each client will be allowed to attend work, counseling and other relevant meetings. The hours a client may be away from the home will be determined by the client and the program director with input from the USPO. Any emergency must be documented and attempts should always be made to receive prior approval. It is anticipated that programs will remain the same throughout the sentence period. Sufficient time will be allotted for the routine needs such as grocery shopping. Once a program plan has been established, the client will be expected to remain in their home at predetermined times. The program coordinator will show the client the exact limits of the home.

Clients will be expected to pay for the program, at a rate of up to \$11.00 per day. The client and USPO will determine the amount to be paid. Any deviation from the established Rent Scale must have the approval of the CPM. The client is required to pay this rent one week in advance and will come to the Oakland facility to make this payment. Cash or money orders are the only acceptable means of payment. Failure to make this payment will result in removal from the program. The equipment, transmitter and monitor, are very expensive and it is expected that the client will take every precaution to avoid damaging the

equipment. It must be understood that willful damaging or stealing the equipment is a felony and is punishable by fine and/or imprisonment.

By voluntarily participating in this program, the client agrees to random visits by the USPO and program staff. The clients must be willing to submit to random urinalysis tests and all other program conditions outlined by the Court, US Probation, and the program staff.

A mandatory prerequisite of the home detention program is that the client maintain fulltime employment. The employer will be notified of the client's participation and will be asked to notify the halfway house staff of any problems (i.e. lateness, absences, promotions, or other changes in status).

The client must bring in pay stubs on a (bi)weekly basis. If a client loses their job through no fault of their own (i.e. layoff), they may be temporarily brought into the halfway house program. There they will have access to the halfway house job developer and counselor for assistance in securing another job. Should a client be fired, however, they will be immediately removed from home detention and brought either into the halfway house at a restricted level for the remainder of their sentence, or be returned to the court for revocation proceedings.

Any decision to participate in this program is solely voluntary. It is important the client discuss this program and its requirements with their family or others who may be living in the home with them. While it is only the clients who wears the transmitter bracelet, the household has the monitor attached to their phone and will receive random phone calls and visits from the program staff and USPO.

A permanent, non-mobile telephone is a requirement of participating in this program. The client may not have call forwarding on the phone and they will be required to bring in the monthly phone bill to the program coordinator for verification.

Home detention is an excellent opportunity for an eligible client to complete their sentence while remaining employed and living at home with their families. Because of this privilege, there is no toleration of any games or failures. It is fully expected that those clients who choose to participate and are selected will be serious and complete their sentence without any problems.

We look forward to working with you in this unique opportunity.

LOCATION

The Electronic Monitoring program is headquartered at 205 MacArthur Boulevard, Oakland, California. It is approximately one-half mile from downtown Oakland. Bus routes pass directly in front of the facility and connections can easily be made to most points in the Bay Area.

DRIVING PRIVILEGES

The Program Coordinator, in conjunction with assigned USPO, may authorize the use of privately owned vehicles by clients under the following conditions:

1. The client must submit a valid California Driver's License.
3. The client must have and submit proof of a valid, up-to-date insurance policy and vehicle registration.
4. If the car is not personally owned by the client, the owner of the car must sign a written letter of authorization for the client to drive it.
5. NO CLIENT IS AUTHORIZED TO DRIVE ANY MOTOR VEHICLE WITHOUT PROPER AUTHORITY AND VIOLATION OF THIS POLICY WILL RESULT IN DISCIPLINARY ACTION.

RELEASE PROCEDURES

On the release date from the Home Detention program, the client is required to bring the equipment (i.e. the monitor and transmitter) to the Oakland facility. At this time, the client will be issued the necessary release paperwork.

MEDICAL CARE

Clients in the Home Detention program will be responsible for their own medical and dental care. At any time medical attention is necessary during the detention period, the client must first contact the Program Coordinator for approval. The Program Coordinator must be notified of any and all currently prescribed medications.

DRUG AND ALCOHOL TESTING

Urinalysis testing will take place on a random basis for all clients. All staff personnel have been trained in methods of the collection, documentation and mailing of urine samples and are authorized to do this testing. Staff members may request a urine test from any client at any time they suspect the possible use of any type of drugs.

This program also utilizes breathalyzer tests. Any time the staff feels a client has been using alcohol a test will be administered. The results from both the urinalysis and breath tests shall be used by staff in disciplinary action.

If drug or alcohol is confirmed, the client may be expelled from the Home Detention program and either returned to the halfway house on complete restriction, or to the Court for revocation proceedings.

If a client is asked to give the urine sample and does not produce a test within two hours, it will be considered a stall and disciplinary action may be taken against the client. If a client refuses to give either a urine sample or breath test, disciplinary action will follow.

Clients with a Drug Aftercare Condition will be required to adhere to formal U.S. Probation guidelines for drug testing and counseling.

CLIENT GRIEVANCE PROCEDURE

If a client feels he/she has been treated unfairly, or has received unfair and/or inordinant punishment, he/she may appeal through a grievance to the program coordinator for remedy. This grievance must be submitted in writing within 24 hours of the incident. If no solution is reached, the client can appeal to the Regional Administrator and then the Executive Director in the same manner.

VISITORS

Clients may have visitors to their home. However, consistent with your probation conditions, you may only socialize with law abiding persons. No alcoholic beverages or drugs may be consumed.

PROHIBITED ACTS

The following are prohibited acts, which when committed will result in disciplinary action and possible removal from the Home Detention program.

1. Failure to be accountable at all times.
2. Possession, introduction, or use of any narcotics, narcotic paraphernalia or drugs not prescribed to the individual by medical staff.
3. Refusing to or failing to provide a urine sample or take part in any drug abuse testing.
4. Giving or offering an official or staff member a bribe or anything of value.
5. Destroying, altering, or damaging any Home Detention equipment.
6. Stealing.
7. Misuse of authorized medication.
8. Refusing to work, or to accept a program assignment.
9. Refusing to obey an order of any staff member.
10. Violating a condition of the Home Detention Program or probation.
11. Unexcused absence from work or any assignment.
12. Insolence toward a staff member.
13. Lying or providing a false statement or information to a staff member.

14. Counterfeiting, forging or unauthorized reproduction of any document, article or identification, money, security, or official paper.
15. Making, possessing, or using intoxicants.
16. Refusing to breath into a breathalyzer or take part in other alcohol abuse testing.
17. Violation of law.
18. Unauthorized use of the mail or telephone.
19. Failure to notify staff of any schedule changes within the established time guidelines.
20. Such other acts as prohibited by the Home Detention Program.

ORIENTATION PAPERWORK

EMERGENCY & DEMOGRAPHIC DATA

Name: _____ Reg. No. _____

Address: _____
Street Apt. City State Zip

Telephone: _____
Home Work

DOB: _____ Race: _____ Ethnic: _____ Sex _____

Notify in Emergency: _____
Name Relationship

Address: _____
Street Apt. City State Zip

Telephone: _____
Home Work

Original Offense: _____

Date Charged: _____ Date Sentenced: _____

FBI No. _____ SS No. _____

Height: _____ Weight: _____ Hair: _____ Eyes: _____

State/Country of Birth: _____ Citizen: _____

Current Medical and Mental Conditions: _____

Arrival Date: _____ Release Date: _____

Client's Signature

Date

Staff's Signature

Date

ARRIVAL CHECKLIST

- _____ Photo and Finger Prints
- _____ Emergency and Demographic Data
- _____ Add Client to Resident List
- _____ Print Out New Resident List and Post
- _____ Log Arrival
- _____ Notify Probation Officer
- _____ Notify CPM
- _____ Secure Transmitter to Client
- _____ Procure Signatures on all Paperwork
- _____ Review Orientation Checklist
- _____ Phone Number/Business Card
- _____ Discuss Messages
- _____ Enter Schedule into Computer
- _____ Set up Monitor in Client's Home
- _____ Test Transmitter and Monitor

Client's Signature

Date

Staff's Signature

Date

ORIENTATION CHECKLIST

- Both the Red and Green power lights must be on at all times. If for any reason they are out, contact the facility immediately.
- When you are home, the White monitor light should be off. If this light ever comes on while you are home, contact the facility immediately.
- It is your responsibility to check your transmitter straps daily and report any damage to the Program Coordinator.
- Do not, for any reason, unplug or relocate the monitor unit. If the monitor unit is unplugged or relocated in the home, it will be considered a violation and may result in your removal from the Home Detention Program.
- The maximum distance of the monitor is about 200 feet, but not every unit has a full range of 200 feet due to the placement and circumstances of the home.
- The computer will occasionally make tests on your system. When this is done, and you are on the phone, you will hear a rotary dialing noise. At this time, you will need to hang up and let the computer complete it's call. If you or someone in your family fails to hang up, it will cause a violation in your program.
- The Program's computer is stationed at ECI, Oakland, which maintains staff 24 hours a day, 7 days a week. In the case of an emergency, you are expected to contact the facility immediately. Following any emergency, you will be expected to furnish verification (i.e. medical report from the hospital).

Client's Signature

Date

Staff's Signature

Date

ORIENTATION CHECKLIST

- ___ Random on-site visits will be made occasionally to your home and place of employment. These may be done at any time and any day of the week.
- ___ Random phone calls will be made occasionally to both your home and your work.
- ___ You will be scheduled to come into the facility once a week to bring in various verifications (e.g. pay stubs, phone bill, etc.).
- ___ You may not consume any alcohol or drugs except for medication prescribed to you
- ___ Any time you come into the facility, are seen by your USPO, or are visited at your home by staff, you are subject to be tested for alcohol or drugs.
- ___ You are not authorized to change you program plan. If it becomes necessary to get more time for required appointments, arrangements must be made at least one week in advance. No last minute changes will be authorized.
- ___ If you ever have any questions or are unsure about something, you should always call the facility for clarification. Assumptions usually spell trouble.

Client's Signature

Date

Staff's Signature

Date

CO-RESIDENTS AGREEMENT

I understand that all persons residing in my residence must be aware of my placement in the Home Detention Program. They must be aware of my program requirements, and agree to support my responsibilities during my detention period.

The people with whom I reside are aware of the following conditions of my placement:

1. Random on-site visits may be made to my home at any time, and on any day of the week.
2. I am not allowed to consume any alcohol or drugs except medication specifically prescribed to me.
3. If anyone is on the phone during a computer test of the system, they must hang up immediately to allow the computer to complete it's test.
4. The monitor, which is connected to the phone, may not be unplugged or relocated.

While the people with whom I reside are not directly responsible for me, they understand the consequences I must face if any violations occur in my program.

The following is a list of those persons living with me:

- | | |
|----|----|
| 1. | 5. |
| 2. | 6. |
| 3. | 7. |
| 4. | 8. |

Client's Signature

Date

Staff's Signature

Date

PHONE SERVICE AGREEMENT

I understand that I must have phone service the entire time that I am in the Home Detention Program.

The phone service that I receive may not include "Call Forwarding".

I understand that as a result of being in the Home Detention Program, my phone bill will contain additional calls made from my home to the facility in Oakland. Therefore, my phone bill may increase in cost of service, and I agree to pay for this. It is recommended that if you live outside of Oakland, you should contact your phone company for discounted service to the 839 prefix in Oakland.

I agree to bring my phone bill in to the facility each month for verification of no "Call Forwarding".

Failure to maintain phone service will result in a violation and my removal from the program.

Client's Signature

Date

Staff's Signature

Date

RESPONSIBILITY FOR MONITORING EQUIPMENT

I, _____ understand the below listed equipment is the property of ECI and that as a condition of my placement on home detention, I agree to be responsible for the equipment during the entire time that I am in the Home Detention Program.

If any of the equipment for which I am responsible is ever lost or damaged, and is caused by either my own or my household's negligence, I agree to pay for the total cost of repair or replacement.

If the equipment is stolen by me, I understand that I will be charged with a felony of grand theft, which is punishable by fine and/or imprisonment.

I have received the equipment listed below and agree to abide by the above noted conditions.

<u>DESCRIPTION</u>	<u>SERIAL NUMBER</u>
1. Monitor	#
2. Transmitter	#
3.	
4.	
5.	

Client's Signature

Date

Staff's Signature

Date

EMPLOYMENT AGREEMENT

I understand that I must be employed full time and have a regular, consistent schedule to be in this program.

A condition of my employment will be that a supervisor at my work site location will know of my status in the Home Detention Program. I understand that occasional calls will be made to this supervisor to verify my employment and accountability.

I will submit in person, on a pre-scheduled basis, my pay stubs and/or paycheck in order to further verify hours worked and pay received. In some cases, it will be necessary to bring in a copy of my time card.

I will notify the facility immediately upon any changes in my employment, which includes any change in hours, pay, status, termination, etc.

I understand that if I lose my employment, regardless of the reason, I will be removed from the Home Detention Program, either temporarily or permanently.

Client's Signature

Date

Staff's Signature

Date

SUPERVISION FEE AGREEMENT

I agree to pay a mandatory fee of \$_____ per day as a condition of my placement in the Home Detention Program.

This fee becomes effective upon the first day in the program and will be collected in advance on either a weekly or bi-weekly basis.

Payments submitted must be done in person at the facility and be made in either cash or money order.

Client's Signature

Date Signed

Staff's Signature

Date Signed

NAME: _____

Address: _____

Street	City	State	Zip
--------	------	-------	-----

Supervisor: _____

Name	Title
------	-------

Title: _____ **Duties:** _____

Mon	Tues	Weds	Thurs	Fri	Sat	Sun
-----	------	------	-------	-----	-----	-----

On-Sites: _____

Phone Calls: _____

Notes: _____

WEEKLY SCHEDULE

I understand and agree that as a condition of my placement in the Home Detention Program, I must adhere to the following schedule exactly. Any deviations from this schedule will constitute a violation and may result in my removal from the program.

If any changes or modifications are to be made, you must contact the Program Coordinator for approval, at least one week in advance of any changes. No last minute changes will be made.

	1st OUT	1st IN	2nd OUT	2nd IN	3rd OUT	3rd IN
Mon	_____	_____	_____	_____	_____	_____
Tus	_____	_____	_____	_____	_____	_____
Wed	_____	_____	_____	_____	_____	_____
Thu	_____	_____	_____	_____	_____	_____
Fri	_____	_____	_____	_____	_____	_____
Sat	_____	_____	_____	_____	_____	_____
Sun	_____	_____	_____	_____	_____	_____

I understand the above schedule, and agree to abide by it.

Client's Signature

Date

Staff's Signature

Date



Record Series:

- Box Number:**

Sorted By:

[illegible]

THE SENTENCING PROJECT

1156 Fifteenth Street, N.W.
Suite 520
Washington, D.C. 20005
—
(202) 463-8348

Malcolm C. Young
Executive Director

23 January 1989

John Steer, General Counsel
David Anderson, Deputy General Counsel
Donald A. Purdy, Deputy General Counsel
The United States Sentencing Commission
1331 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Dear Mssrs. Steer, Anderson and Purdy:

Benson Weintraub, Esq. has conveyed your interest in attending the National Conference on Sentencing Advocacy.

On behalf of The Sentencing Project and the Practising Law Institute, I am pleased to extend a courtesy registration to you so that you may attend all or part of this conference. The conference focuses on sentencing issues of concern to state and federal practitioners, and we think it will include materials and discussions relevant to the United States Sentencing Commission's ongoing work.

If you are able to accept our invitation to attend this conference, we would request that you register with the Practising Law Institute, following the instructions and using the form on the enclosed brochure, in advance of the conference if possible. If it is not possible for you to pre-register, you may register at the door. In either case, please bring a copy of this letter to submit in lieu of the registration fee. If you have any questions, or we may be of assistance, please do not hesitate to call.

Sincerely,

/s/
Malcolm C. Young

phg
Enc.

cc: William W. Wilkins, Jr., USSC
Benson Weintraub, Esq., NACDL
Alan Ellis, Esq., NACDL
Janet Siegel, Program Attorney
Practising Law Institute