

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

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MONROE HIEBEL
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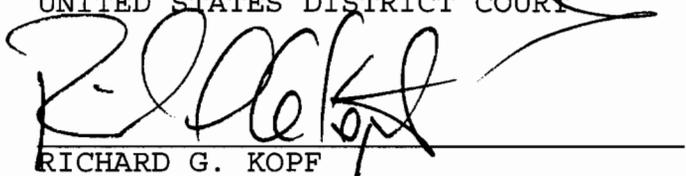
IN THE MATTER OF THE)
ADOPTION OF POLICIES FOR) GENERAL ORDER NO. 97-09
HOME CONFINEMENT)

IT IS ORDERED by the undersigned that the district policies for home confinement, a copy of which is attached hereto, are adopted by the United States District Court for the District of Nebraska, effective upon date hereof, to supersede in whole prior policies of the district for home confinement.

Dated this 12 day of December, 1997.



WILLIAM G. CAMBRIDGE, CHIEF JUDGE
UNITED STATES DISTRICT COURT



RICHARD G. KOPF
UNITED STATES DISTRICT JUDGE



THOMAS M. SHANAHAN
UNITED STATES DISTRICT JUDGE



JOSEPH F. BATAILLON
UNITED STATES DISTRICT JUDGE

**DISTRICT POLICIES FOR HOME CONFINEMENT
DISTRICT OF NEBRASKA**

I. General Policies

A. Three types of Home Confinement

Home Confinement refers to any judicially or administratively imposed condition requiring a participant to remain in his or her residence for any portion of the day. Home confinement shall be monitored with electronic equipment. Unless otherwise ordered, home confinement shall be supervised as home detention.

In order of increasing severity, the levels of home confinement are curfew, home detention and home incarceration.

1. Curfew

Curfew is a form of home confinement where the participant is restricted to his or her residence during specified hours, usually at night.

2. Home Detention

Home detention requires that the participant remain at home at all times except for approved leave for employment, education, medical, religious, and correctional treatment purposes. Additional leave may be granted, if the program permits.

3. Home Incarceration (24 hour Lock Down)

This is the most restrictive form of home confinement. It restricts a participant to his or her residence at all times. Special leave is usually granted only for religious or medical reasons.

B. Electronic Monitoring - Minimally intrusive equipment

To assist with monitoring home confinement, continuously signaling equipment will be used. With this type of equipment, the offender and family do not have to be bothered with phone calls in the middle of the night.

Continuously signaling equipment, also referred to as

"active" or radio frequency equipment, transmits a continuous signal from a transmitter worn by the participant, through the receiver/dialer, to a central monitoring computer. This system alerts the officer if the participant tampers with the equipment or goes outside a specified range. This equipment monitors the participant 24 hours a day, 7 days a week.

"The equipment helps the probation officer track the following:

1. Unauthorized absences from the residence;
2. Late arrivals;
3. Equipment (transmitter, receiver/dialer) malfunctions;
4. Tampering with equipment;
5. Loss of electrical power or telephone service;
6. Location verification failure; and
7. Missed calls from Receiver/Dialer.

C. General Selection Criteria

Home confinement may be appropriate for persons for whom the jail or prison environment is unsuitable because of illness, handicap, pregnancy, or other physical condition. As a pre-release mechanism it can be used to assist in the prison overcrowding crisis. For selected individuals who do not require the services of a Community Corrections Center it can provide the same transition period between institutionalization and freedom in the community at much lower cost and without jeopardizing public safety. It is also appropriate for use with probation or parole violators. At the same time consideration should be given to the availability of other community placement options.

When assessing suitability, background information regarding health, mental stability, substance abuse history, assaultive behavior and prior record of convictions should be weighed on a case by case basis. Community and familial stability are also important considerations. A residence is essential. The other persons residing with the participant must be supportive and willing to make the necessary sacrifices demanded by home confinement and electronic monitoring.

Consistent with the Sentencing Commission's concern that punishment is commensurate with the seriousness of the crime, it should be noted that some homes may not be suitable as a place of confinement. They may contain sufficient amenities that the sentence cannot be made sufficiently unpleasant to be punitive. For offenders for whom home confinement is the sole punishment, the probation officer must survey the home to see if it is of such luxurious nature that confinement there would not constitute sufficient punishment. The public perception of the severity of the sentence may be diminished if participants are allowed to serve their entire sentence in homes with swimming pools, maid service, etc.

Probation officers should consider recommending additional special conditions of confinement that might make home confinement more punitive. In some cases, it may be necessary for the participant to arrange for boarding at a site other than the participants primary residence.

D. Violations

1. Responses to Monitoring Incidents

All apparent violations of either home confinement conditions or the general conditions or release must be promptly and carefully investigated. This should include obtaining the offender's explanation. Once it has been determined that a violation has occurred, probation officers may determine what action to take. The available sanctions include:

- A. Reprimand or warning, from the officer, judicial officer or releasing authority;
- B. Loss of leave for one or more weeks; or
- C. A period of 24 hour lock down.
- D. Request adverse action from the releasing authority.

In general, violations of any condition of a release that includes home confinement must be treated more seriously than regular supervision cases. Participants in this program are persons who would otherwise have been in custody. Similarly, participants who transfer into home confinement from a general caseload do so because of previous difficulties and further violations are

not tolerated.

The choice of sanction should be determined by two factors: the seriousness of the violation and the individual history of the participant. The most serious violations include:

- A. New criminal conduct
- B. Violations that put the community at risk
- C. Violations that reflect flagrant disregard for the conditions of release.
- D. A participant's illegal drug use, either admitted by the participant or confirmed by urinalysis, may result in an immediate request for an adverse action. Participants should be advised of this fact when they enter the program.

Swift detection, response and reporting of violations are essential to the integrity and credibility of the home confinement program. Warrants for parolees are requested by telephone (with written follow-up the same day), and are immediately teletyped to the U. S. Marshal.

Where possible, the U. S. marshal should be asked to attempt to make an arrest at home so that the monitoring equipment can be retrieved at the same time. A probation officer should accompany the Deputy Marshals to the participant's residence for this purpose, if resistance is not expected.

2. Reporting Violations

The Bureau of Prisons is notified of offenders who violate the conditions of the home confinement participant agreement who are under the jurisdiction of the Bureau of Prisons. The court is notified in the case of probationers or supervised releasees who incur violations. Parolees who incur violations are reported to the Parole Commission.

E. Releasing Authority

- 1. Violations by probationers and supervised releasee's are reported to the sentencing court using the format approved by the court.

2. Violations by parolees, mandatory releasee's, and special parole term violators are reported to the Parole Commission following the standard procedures used to request a warrant.
3. Violations by those who are legally the responsibility of the Bureau of Prisons are reported to the CCM as a disciplinary violation. A disciplinary report must be prepared.

II. Offenders

- A. Offenders are required to remain inside their homes during periods of curfew. They may be in any portion of the dwelling attached to the residence including attached garages, attached porches, etc. Offenders may not go outside the residence to out buildings such as detached garages, barns, etc. Yard work or any outside work must be completed during approved free time.
- B. A "just like prison" standard is employed when determining the appropriateness of offender requests: Would the offender be allowed to do this activity if in a jail type setting on work release?
- C. Offenders are subject to a "zero tolerance" policy. They are not to use drugs or alcohol except those medications as prescribed by a physician. Offenders are not to consume any beverage containing alcohol including "near beer" products. Generally, violation proceedings will be initiated on the offenders first positive urinalysis. Special circumstances may warrant more rigorous treatment in lieu of violation proceedings. This alternative is subject to the approval of the designated supervisor and/or sentencing court.
- D. Offenders are subject to random urinalysis. Offenders convicted of drug offenses or known to have drug or alcohol related difficulties are to be placed on phase testing, consistent with the requirements of their supervision.
- E. Offenders are not required to notify their employers that they are on home confinement unless a third party risk exists. Probation officers may contact the offender at work and may notify the employer of the offenders status, if deemed necessary to carry out or confirm requirements of the home confinement agreement. Unemployed offenders will be allowed time out to seek employment; however, must notify the probation office of scheduled appointments in advance and maintain a log of individuals

with whom they interview. If offenders do not have fixed job sites, they must inform the probation office as to their whereabouts or be accessible at all times. Offenders will not be allowed overnight travel for employment or any other reason. They must take the most direct route to all destinations.

- F. Offenders must be home a minimum of 12 hours each day. They may not be away from home for more than 72 hours per week (Sunday through Saturday). Included in this total is time spent away from home for employment, free time, counseling, community service, travel time, etc. Not included is time spent attending religious services.
- G. Offenders will be allowed to complete community service hours while on home confinement as long as they do not exceed the 12 hour per day/72 hour per week cap.
- H. Offenders will submit a list of people they anticipate may visit their residence during home confinement.
- I. Offenders placed on home confinement by the court will be granted two, 2 hour blocks of free time each week to take care of necessities including: grocery shopping, hair cuts, laundry, exercise time, etc. Parolees placed on home confinement shall have the option of taking free time based on district policy (two, 2 hour time blocks per week) or the policy outlined in the U. S. Probation Manual: no free time during the first two weeks, 4 hours free time for weeks 3 - 5, 6 hours free time for weeks 6 - 9, and 8 hours free time for 10 weeks and over). Free time may be rescinded in specific increments for rules violations, subject to the approval of the chief probation officer or his designee. Offenders will not be granted free time after 9:00 p.m. except for exceptional activities specifically approved by the probation office. Free time may be used for leisure activities but offenders may not spend their free time at any establishments whose primary purpose is to serve alcoholic beverages and/or promote gambling.
- J. All offenders shall be monitored electronically unless the court orders otherwise.
- K. Offenders are not to be given information as to the limitations of the electronic monitoring process.
- L. Offenders will pay the costs of home confinement as directed by the court.
- M. Offenders are subject to immediate removal from home confinement when violation proceedings have been

initiated and a summons or warrant issued.

- N. If the general supervision of the offender is not being handled by the Home Confinement Specialist, the USPO monitoring general supervision will make a field contact at least once per month and the Home Confinement Specialist will make additional contacts as deemed necessary.
- O. The following intermediate sanctions may be considered in lieu of violation proceedings:
 - 1. verbal reprimand
 - 2. written reprimand
 - 3. loss of free time
 - 4. up to one weeks suspension of all outside activities/24 hours lock down.

Loss of free time and 24 hour lock down must be approved by the supervisor.

- P. Offenders will be placed on home confinement based upon availability. The home confinement case load will not exceed 20 offenders. Offenders will be placed on a waiting list and started on home confinement in order of sentencing unless otherwise approved by the supervisor or a specific starting date is set by the court. Offenders first serving a jail sentence on supervised release will receive priority.

III. Duties of the Home Confinement Specialist

- A. The Home Confinement Specialist is dedicated to the concept of Home Confinement as an alternative to incarceration.

The Home confinement Specialist develops guidelines/procedures for home confinement and implements the District's Home Confinement Program. The Specialist serves as an expert in home confinement and electronic monitoring supervision/strategies. The Specialist participates in administrative level planning, consultation and program development pertaining to home confinement. The Specialist is responsible for the evaluation and review of the District's Home Confinement Program. The Home Confinement Specialist works closely with other probation officers and law enforcement in the investigation, supervision, and surveillance of offenders

on home confinement.

1. Manage a maximum of 20 offenders on home confinement.
2. Screen offenders for home confinement and maintain/update the waiting list.
3. Install, remove and maintain equipment; inventory equipment; and order/return equipment to B. I. Monitoring, Inc.
4. Enforce conditions of home confinement in accordance with the home confinement agreement; schedule/verify leave for offenders; make at least one personal contact monthly with offenders; log contacts with offenders; review daily systems reports; impose intermediate sanctions and/or notify the Court regarding violations of the home confinement agreement.
5. Maintain case files, statistics and monthly status reports.
6. Collect and record home confinement fees.
7. Notify authorities as to the presence of a home confinement offender in their locale; enlist their assistance when necessary.
8. Be on call/pager from 8:00 a.m. Monday to 4:30 p.m. Friday. No duty time will be awarded for being on call outside of regularly scheduled work hours. Duty time will be awarded for weekend duty just the same as for the RED officer.
9. Maintain a log of hours worked and be willing to work a flex schedule, including evening and weekend hours.
10. Handle all supervision aspects of offenders while they are participating in the home confinement program for those offenders residing within a 75 mile radius of Lincoln. Those offenders who reside beyond the 75 mile limit will be staffed with the SUSPO of the Home Confinement Specialist to determine if general supervision will be provided by the Home Confinement Specialist or the USPO supervising the field territory where the offender resides.
11. Supervise the District of Nebraska's WITSEC cases.

12. Prepare and update the backup pager coverage officer list and distribute to officers. Coordinate the transfer of pager coverage responsibilities for weekend duty. Maintain and update the home confinement supervision notebooks in all locations.

IV. Duties of Officer Supervising Offenders Outside the 75 Mile Radius of Lincoln

- A. The USPO providing general supervision shall coordinate the home confinement start date with the Home Confinement Specialist during the first 60 days of supervision.
- B. Supervision Contacts: The USPO providing general supervision shall see the offender on home confinement as per the guidelines of enhanced supervision.
- C. The USPO providing general supervision shall see offenders on home confinement in the field at least once a month.
- D. All officers should do at minimum a visual inspection of the offenders ankle transmitter during each contact. Inquiry should be made about any problems the offender may be having with the transmitter. (Example: sores, too tight, etc.)
- E. The USPO providing supervision shall implement urinalysis per policy. Offenders on home confinement may not use or possess alcohol or drugs while on the program. All are subject to urinalysis and search and seizure.
- F. Verification of Leaves - The USPO Providing general supervision shall assist the home confinement process by:
 1. reviewing paycheck stubs,
 2. making random calls/visits to work or other activities (dr. appts., AA/NA, etc.),
 3. provide and maintain AA/NA attendance cards on home confinement offenders, assist with monitoring offenders who have no fixed job site or are seeking employment,
 4. verify attendance at treatment, doctors appointments, church, and emergencies.

V. Duties of PSR Officer

A. Requirements for home confinement.

1. Offenders on home confinement must have a residence and a telephone.
2. The offender must have at least 1 "clean" telephone line (no call waiting, no call forwarding, caller I.D., etc.). The offender will not be able to use computer modems, cordless phones, or answering machines on the telephone line with the home confinement equipment.
3. Home confinement costs shall be recommended in all cases. If an offender is unable to pay these costs they can be waived later.
4. The program notice (included in PSR packet) should be completed by the offender and forwarded to the Home Confinement Officer.

B. Things to consider when recommending placement on home confinement:

1. History of assaultive or violent behavior.
2. Prior record of possessing/using weapons.
3. Family history of domestic violence.
4. Substance abuse/treatment referrals.
5. Mental health problems/mental instability.
6. Health.
 - A. pregnancy
 - B. physical ailments,
 - C. disabilities,
 - D. problems associated with aging,
7. Employment
8. A period of home confinement of not less than 60 and not more than 180 days is suggested.
9. Geographic feasibility of home confinement.

- C. Officer notification - Prior to sentencing, the USPO completing the PSR shall forward a copy of the PSR, recommendation for home confinement, and the home confinement checklist to the Home Confinement Specialist for approval. The USPO completing the PSR shall be responsible for notifying the home confinement officer when an offender is sentenced to a period of home confinement.

VI. Reserve Electronic Duty (RED)

- A. The home confinement officer shall:
1. Notify RED officer prior to passing the pager duty and notebook.
 2. The home confinement officer shall clear all messages from the home confinement answering machine prior to passing the pager duty and notebook to the RED officer. Schedules and chronos in the notebook shall be current.
- B. USPOs "volunteering" to assist with covering home confinement shall perform the following duties:
1. Contact the home confinement officer two days prior to being "on duty" and arrange for passing the pager.
 2. Maintain responsibility for all District home confinement cases. Respond to all pages, follow up with telephone calls to offender, make personal contacts or arrange for such contacts if necessary.
 3. Record all activity with chronological entries and have all entries in the home confinement notebook prior to returning the pager duty and notebook to the home confinement officer.
 4. Periodically check the answering machine, log all messages on answering machine, make necessary schedule changes, and erase answering machine prior to returning notebook and pager duty to home confinement officer.
 5. In the event of an equipment problem, the RED officer is responsible for changing transmitters, home monitoring units, etc., or arranging for same with USPO/SUSPO's familiar with the equipment. Spare equipment is available and the B. I. operators can trouble shoot any problems and walk

through repair procedures.

VII. Home Confinement Case Information

- A. The "start-up" home confinement file shall contain the following:
1. presentence report,
 2. J & C,
 3. screen check list,
 4. informational forms to be sent to the offender,
 5. blank forms for the working file.
- B. A separate working home confinement file shall be maintained by the home confinement officer and contain the following information:
1. home confinement agreement, signed by the offender,
 2. equipment assignment form, signed by the offender,
 3. telephone company releases (2), signed by the person named on the telephone listing,
 4. zero tolerance warning, signed by the offender,
 5. cost notification, signed by the offender,
 6. copy of law enforcement bulletin
 7. all information relative to maintaining case file (chronos removed from notebook, correspondence, etc.).
- C. The home confinement notebook shall have a section for each offender and contain:
1. current schedules
 2. B. I. data worksheet
 3. law enforcement bulletin
 4. visitor's list
 5. current chronos

VIII. Duty Time Schedule

Any officer covering the pager on the weekend accrues duty time of four hours. Officers who provide back up pager coverage while the Home Confinement Specialist is on annual, administrative or sick leave, accrue duty time at the rate of two hours per day (14 hours total for the week).