

MARYLAND COMMISSION ON CORRECTIONAL STANDARDS

STANDARDS, COMPLIANCE CRITERIA AND COMPLIANCE EXPLANATIONS FOR PRIVATE HOME DETENTION MONITORING AGENCIES

.01 MANAGEMENT OF MONITORED INDIVIDUALS

A. ORIENTATION OF A MONITORED INDIVIDUAL

The monitoring agency shall have a written policy and procedure governing the orientation of a monitored individual before the activation of monitoring equipment, which shall include instructions regarding the following:

- (1) Equipment use and care,
- (2) Expectations for others at the approved location,
- (3) Rules and regulations of the monitoring agency,
- (4) Internal complaint process,
- (5) Access to case records by the monitored individual, attorneys, and the court,
- (6) Emergency situations,
- (7) A change in the monitored individual's schedule,
- (8) The process for the termination of monitoring,
- (9) Notification that the violation of the home detention order or agreement may be considered an escape and subject to prosecution and imprisonment, which includes the requirement that the monitored individual shall sign an acknowledgement of such notification.

Compliance Criteria

Written policy and procedure addressing all elements; review of case records/orientation schedules and documents; orientation materials; interviews of staff.

Compliance Explanation

Documentation that the monitored individual has been instructed on the use and care of the monitoring equipment must be maintained. The monitored individual must be made aware of what is expected of those living in the household. Written rules and regulations regarding activities allowed must be clearly related to the monitored individual. The monitored individual must be made aware of the complaint process and the procedures for filing a complaint, thereby ensuring the right to due process.

Circumstances warranting the release of specific case information must be provided at that time. The procedures to be followed in the event of an emergency, a change in the monitored individual's schedule and program termination, are also part of the orientation process. A monitored individual's awareness of these elements must be documented.

B. INTAKE/ENROLLMENT OF A MONITORED INDIVIDUAL

The monitoring agency shall have a written policy and procedure governing the enrollment of a newly received individual in the monitoring agency, which includes provisions for the following:

- (1) Verification of a legal document noting the conditions and stipulations ordered by the court,
- (2) A system of identification of the monitored individual,
- (3) Collection of personal data pertaining to the monitored individual,
- (4) Approval by the leaseholder or owner of the approved location
- (5) Approval by the owner of the required telephone service,
- (6) Verification of the monitored individual's approved location,
- (7) Notification to the court that the monitored individual is enrolled in the monitoring agency's program, specifying the type of electronic monitoring to be used, and
- (8) Installation of appropriate electronic monitoring equipment on the monitored individual or at the monitored individual's approved location, or both, if required.

Compliance Criteria

Written policy and procedure addressing all elements; review of court order; review of system for identification of monitored individual; review of intake records and collection of personal data on monitored individuals; written approval provided by the leaseholder/owner of the residence; copy of the residence telephone bill and written approval by the person leasing the telephone service; review of the documentation and system for verifying the monitored individual's residence; records of notification to the court; records of equipment issuance and installation.

Compliance Explanation

Care must be taken to ensure that the individual is properly assigned, through court order, to a home detention program. A legal/court document, requiring home detention, must be maintained in the monitored individual's file. Care must be taken to properly identify the individual prior to placement. Personal information to initiate the case record should include, but not be limited to: the crime that the individual is charged with or convicted of having committed; social information; medical condition; employment status and history; and general intake information. Written consent for use of the approved residence and telephone is needed from the leaseholder/ owner of the residence and telephone service. A method of verifying the monitored individual's approved residence must be in place and documented. Timely notification must be given to the appropriate court indicating that the individual has been placed on a private home detention monitoring program and the type of electronic monitoring that will be used. Records must be maintained on electronic monitoring equipment including where it was installed, to whom it was issued and the date of issuance.

C. SCHEDULING OF A MONITORED INDIVIDUAL

The monitoring agency shall have a written policy and procedure for establishing the monitored individual's schedule as ordered or permitted by the court, which includes provisions for:

- (1) Establishment of the initial schedule signed and dated by the monitored individual and the staff member who prepared it,
- (2) Modification of the schedule to allow for court-approved activities,
- (3) A temporary court-approved change, initialed by the monitor making the change, and
- (4) Review of the schedule with the monitored individual at least monthly, signed and dated by the monitored individual and the monitor.

Compliance Criteria

Written policy and procedure addressing all elements; review of electronic monitoring schedules with required signatures and dates; documented changes to electronic monitoring schedules with required court documentation; documented review of electronic monitoring schedule by the monitor with the monitored individual.

Compliance Explanation

A schedule of times when the individual will be allowed to leave the approved residence must be established prior to the commencement of monitoring. The individual must be under electronic monitoring supervision at all times except for times and activities allowed by the court. Any modification or change to this schedule must have the permission or order of the court. To ensure the accuracy of the schedule, and accountability of the monitored individual, the monitoring schedule must be reviewed monthly. The signatures of the monitored individual and the monitor are to be on the schedule along with the date of its review.

D. FEE ESTABLISHMENT

The monitoring agency shall have a written policy and procedure for establishing the fee to be charged to a monitored individual, collection of fees, action to be taken against a monitored individual who is in arrears and recording of fee payments received.

Compliance Criteria

Written policy and procedure addressing all elements; review of financial and case records; receipts for services provided.

Compliance Explanation

Private home detention monitoring agencies must have a process for imposing, collecting and accounting for appropriate home detention fees for monitored individuals. Such an accounting system must include a record of all transactions and the easy identification of individuals who are in arrears. Clear guidelines are to state the action to be taken against individuals who fail to pay private home detention monitoring fees, up to and including prosecution under Article 27, §616.5 (m)(2), Annotated Code of Maryland. Providing receipts for services rendered ensures accountability and may prevent errors.

E. MONITORING

The monitoring agency shall have a written policy and procedure governing the monitoring of an individual which includes provisions for the following:

- (1) Enough monitors on duty so that the number of individuals being monitored does not pose a threat to public safety, but not less than one monitor on duty and one on call and available twenty-four hours a day, seven days a week,
- (2) Drug or alcohol testing, or both, of a monitored individual as ordered by the court,
- (3) In-person contact by a monitor as ordered by the court, but not less than monthly,
- (4) Circumstances for a monitor's visit to the monitored individual's approved residence, and
- (5) Verification of the monitored individual's attendance at, and status of, employment or a court-ordered activity, or both, and,
- (6) Immediate notification to the local law enforcement agency, and next working day notification to the court that ordered home detention, the State's attorney and the supervising probation agent when a monitored individual is determined to have escaped.

Compliance Criteria

Written policy and procedure addressing all elements; roster of monitors and a schedule of work hours; drug and alcohol testing of monitored individuals so ordered; records of in-person contact; records of visits to the monitored individual's approved residence; records of attendance at court-approved activities and work.

Compliance Explanation

Enough monitors must be employed and on duty to electronically monitor individuals, thereby minimizing the risk to public safety. The monitoring agency must maintain a roster of, and schedule for, the monitors. Records of all court-ordered drug and alcohol testing are to be maintained, and results should be forwarded to the appropriate authority. In-person contact between a monitor and a monitored individual must be made at least monthly. Reasons for a visit to the monitored individual's approved residence must be determined and records maintained for all such visits. Additionally, a monitored individual may be in the community only at times authorized by the court. All activities (e.g., attendance at school, work, drug treatment, etc.) must be verified.

F. VERIFICATION OF WORK AND OTHER COMMUNITY ACTIVITIES

The monitoring agency shall have a written policy and procedure for the verification of the monitored individual's participation in court-ordered work and other community activities, including provisions for:

- (1) Documentation of scheduled activities, provided not less than every other week, and
- (2) Documentation of unscheduled activities, which shall be provided as soon as possible, but not later than the next working day.

Compliance Criteria

Written policy and procedure; records verifying scheduled activities and accounting for unscheduled activities.

Compliance Explanation

The monitoring agency must account for the activities of the monitored individual while authorized to be in the community. Activities authorized by the court must be verified and accounted for not less than every other week. Unscheduled activities (e.g., hospitalizations, etc.) must be verified as soon as possible, but no later than the next working day. Certain unscheduled activities should be reported to the appropriate authority so that all parties are aware of the monitored individual's activities. Records of verification may include site visits, telephone contacts, pay stubs or appropriate correspondence.

G. TRANSPORTING A MONITORED INDIVIDUAL

The monitoring agency shall have a written policy and procedure for the transportation of a monitored individual by a monitor in a vehicle that is properly licensed and insured for that purpose, or a policy prohibiting a monitor from transporting a monitored individual.

Compliance Criteria

Written policy and procedure; personnel records; records of vehicle and employee licensure; observation; staff interviews.

Compliance Explanation

The monitoring agency must document the licensing and insurance of any vehicle that is used to transport monitored individuals. Only employees with valid licenses and vehicles properly insured may be assigned to transport monitored individuals.

Documentation must be maintained in accordance with applicable licensing and regulatory agencies. If the agency does not transport monitored individuals, this information must be included in its policy.

H. PROGRAM RELEASE OF A MONITORED INDIVIDUAL

The monitoring agency shall have a written policy and procedure governing the termination of monitoring an individual which includes provisions for:

- (1) Verification of identity,
- (2) Authorization to discharge the monitored individual, and
- (3) Notification to the court and to affected agencies and individuals as required by law or ordered by the court.

Compliance Criteria

Written policy and procedure inclusive of all elements; review of case records; review of release records and observations.

Compliance Explanation

To ensure public safety, considerable care must be taken to correctly identify the monitored individual scheduled for discharge from the program. The document used as the basis for release is to be authenticated prior to the termination of monitoring. Records of these activities should be maintained. Appropriate agencies or authorities (e.g., the court, the Division of Parole and Probation, local law enforcement agencies, etc.) must be contacted as required and should routinely be advised of any termination of monitoring. Consideration should also be given to notifying other affected persons, such as victims, especially if required under Article 27, § 761, Annotated Code of Maryland.

I. ABSENCE OR ABSCONDING OF A MONITORED INDIVIDUAL

The monitoring agency shall have a written policy and procedure for documented action by a monitor, when the monitored individual is unaccounted for, absent from an approved location or whose location was unknown during the following time frames:

- (1) Less than two hours,
- (2) More than two hours but less than twenty-four, and
- (3) Twenty-four hours or more to include written notification to the appropriate authority as required by law, Business Occupations and Professions Article,

§20-401(c), Annotated Code of Maryland.

Compliance Criteria

Written policy and procedure; review of case files, incident reports; electronic files and court documents.

Compliance Explanation

The policy is to include actions to be taken by a monitor whenever a monitor is notified that a monitored individual is missing. Procedures must be clear and address escapes and any instance where a monitored individual is unaccounted for, absent from an approved location, or whose location is unknown within the prescribed time frames. The number of escapes and instances must be maintained and consideration should be given to maintaining reports of each such event. When a monitored individual is determined to have escaped, monitoring agencies are required to immediately notify the local law enforcement agency, and next working day notification to the court that ordered home detention, the State's Attorney and the supervising probation agent, if applicable. If not an escape, notification must be provided to the court and/or the Division of Parole and Probation in any instance where a monitored individual has been missing for twenty-four hours. Such notification must be made no later than the next working day. In light of the current escape laws, however, a twenty-four hour period is unlikely to be an instance rather than an escape. Notification documentation for escapes and instances must be maintained by the monitoring agency.

.02 CONTINGENCY PLANS

A. EMERGENCY AT THE MONITORED INDIVIDUAL'S RESIDENCE


The monitoring agency shall have a written policy and procedure that includes provisions for a backup source of power, the resumption of monitoring and notification to the appropriate authority, detailing plans for the following emergencies at the monitored individual's approved residence:

- (1) Power outage,
- (2) Loss of telephone service,
- (3) Fire,
- (4) Flood,
- (5) Malfunction of equipment, and
- (6) Other emergencies.

Compliance Criteria

Written policy and procedure addressing all elements; review of emergency plans; incident reports and notifications to the affected court or agency.

Compliance Explanation

Provisions must be in place to address potential emergencies at the monitored individual's residence such as power outage, loss of telephone service, fire, flood, malfunction of equipment, etc. Instructions to staff and monitored individuals regarding emergency situations must be clear and comprehensive to minimize the interruption to monitoring. The monitored individual needs to know what to do in the event of such emergencies, and the monitor must know how to respond for the protection of the monitored individuals and electronic monitoring equipment. Each emergency can present different problems and may require a unique response. Emergency plans require the resumption of monitoring in the most immediate and efficient fashion. In instances where the monitored individual must change residence, every effort should be made to immediately obtain written consent for use of the approved residence and telephone from the owner/leaseholder of the residence and telephone service. Some emergencies may require only a visit to the approved residence to repair or replace electronic monitoring equipment. In instances where emergencies result in a prolonged absence of monitoring, the court or the Division of Parole and Probation are to be notified. 

B. CONTINGENCY PLANS FOR THE MONITORING AGENCY

The monitoring agency shall have a written policy and procedure detailing contingency plans for the monitoring agency's operation, which includes provisions for:

- (1) Power outage or loss of telephone service,
- (2) The death, serious illness, incapacitation, or the personal emergency of a monitor,
- (3) Financial hardship or insolvency of the monitoring agency,
- (4) Movement of monitoring equipment or the transfer of monitoring services if the monitoring agency's office becomes unusable,
- (5) Prompt notification to a governmental agency responsible for supervising the monitored individual, and
- (6) Prompt notification to the court that ordered the monitoring.

Compliance Criteria

Written policy and procedure addressing all elements; acknowledgement of awareness and training; staff interviews; incident reports and records of any such occurrence; and court notifications.

Compliance Explanation

In order to provide uninterrupted court-ordered monitoring of individuals and to protect public safety, monitoring agencies are to have written contingency plans. These plans should take into account events such as a natural disaster or an unexpected emergency involving the monitoring agency or monitoring agency personnel. Consideration should be given to the use of backup sources of power and the use of emergency communications equipment and systems. In some instances, the temporary transfer of monitoring to another entity or service provider should be considered. Trained personnel must be available to replace on duty staff if necessary. Provisions must be in place for the monitoring agency's operations in the event of financial hardships, insolvency or the dissolution of the monitoring agency. Consideration should also be given to the possibility that the monitoring agency may need to relocate its office. In any instance that requires the monitoring agency to activate its contingency plans, all appropriate governmental agencies and affected monitored individuals shall be notified.

.03 RIGHTS OF MONITORED INDIVIDUALS

A. NONDISCRIMINATION

The monitoring agency shall have a written policy prohibiting discrimination against a monitored individual with regard to programs and services, or activities on the basis of race, religion, national origin, sex, or disability.

Compliance Criteria

Written policy; observation; complaints.

Compliance Explanation

The monitoring agency shall ensure nondiscriminatory decision-making affecting status, activities, and equal access to monitored individuals. The policy must be communicated to all staff and its conformance strictly enforced.

B. ACCOMMODATIONS FOR A DISABLED INDIVIDUAL

The monitoring agency shall have a written policy and procedure ensuring that reasonable accommodations are made for an individual with a disability.

Compliance Criteria

Written policy and procedure; observation; complaints.

Compliance Explanation

The monitoring agency must be in compliance with the Americans With Disabilities Act to ensure that disabled persons have full access to the agency offices. In instances where the office is inaccessible, provisions must be made to provide the required services by another method.

C. ORIENTATION

The monitoring agency shall have a written policy and procedure ensuring that, at orientation and before monitoring starts, a monitored individual is given written information describing the program and the expectations of a monitored individual.

Compliance Criteria

Written policy and procedure; review of handbook/orientation materials; review written acknowledgement of monitored individuals; staff awareness; training records of staff.

Compliance Explanation

Clear, concise and specific written rules and regulations specifying the guidelines of the home detention program must be provided to familiarize the monitored individual with the program prior to monitoring. Assistance should be provided to monitored individuals with language, sight, hearing or comprehension problems. All monitors must be trained in the procedures for providing monitored individuals' orientation.

D. MONITORED INDIVIDUAL EXERTING CONTROL

The monitoring agency shall have a written policy prohibiting a monitored individual from supervising, monitoring, controlling, or exerting or assuming authority over another monitored individual.

Compliance Criteria

Written policy; observation; interviews of staff.

Compliance Explanation

Supervision, control and authority over monitored individuals is the sole responsibility of the monitoring agency and cannot be delegated to a monitored individual. Any relinquishing of authority over monitored individuals can lead to a breakdown of control, jeopardizing public safety and diminished regard for the industry. Favoritism and preferential treatment are prohibited.

E. PROGRAM PARTICIPATION

The monitoring agency shall have a written policy ensuring the right of a monitored individual to choose a monitoring agency unless otherwise ordered by the court.

Compliance Criteria

Written policy; review of court documents.

Compliance Explanation

Unless a monitored individual is court-ordered to participate in a particular home detention program, the individual has the right to select the services of any monitoring agency in the state. A monitoring agency should be forthright in the information provided to a prospective client, a representative of the court or an attorney.

F. RIGHT TO DUE PROCESS

The monitoring agency shall have a written policy and procedure ensuring access by a monitored individual to information pertaining to the monitoring if the individual is referred to the court for a program violation.

Compliance Criteria

Written policy and procedure; review of case records; records of provision.

Compliance Explanation

Upon request, appropriate information must be furnished to a monitored individual when he is referred to the court for an alleged violation of the court order or program rules. Such information shall be accurate and complete and may also be furnished to the court. The documentation should be prepared in a format that is understood by the monitored individual and provided in a timely fashion.

.04 RECORDS FOR MONITORED INDIVIDUALS

A. UNAUTHORIZED ACCESS

The monitoring agency shall have a written policy and procedure ensuring that a monitored individual does not have unauthorized access to files, computers, and computer records of the monitoring agency.

Compliance Criteria

Written policy and procedure; interviews of staff; observations.

Compliance Explanation

Case records, files and equipment must always be under the supervision of authorized personnel in a secure area at the agency not frequented by monitored individuals or unauthorized persons. Provisions must be made to maintain the integrity of the electronic monitoring base station through the use of access codes, “fire walls” and secured telephone lines. File cabinets containing case records should be secured, clearly identified and marked “Confidential” to prevent accidental entry by unauthorized persons.

B. CONFIDENTIALITY OF CASE RECORDS

The monitoring agency shall have a written policy and procedure ensuring the confidentiality of, and methods of authorized access to, a case record by a monitored individual, a person in interest and an individual or agency making a formal request, which includes provisions for:

- (1) Identification of an individual authorized to approve access,
- (2) Designation of materials subject to disclosure and restriction in accordance with applicable statutes and regulations,
- (3) A form used by a monitored individual for consenting to the release of information, and
- (4) A record of access decisions.

Compliance Criteria

Written policy and procedure; review of case records; interviews of staff; records of provision/denial; orientation materials.

Compliance Explanation

The circumstances warranting the release of specific case record information must be determined. Release of information forms must be developed to document authorized disclosures of information, and should contain, at a minimum, the name of the monitored individual, the monitoring agency, the person requesting the information, designation of the information to be disclosed, rationale or purpose of disclosure, the signatures and dates of the monitored individual, a witness and an expiration date. The procedures regarding access to case files (e.g., medical information, court order or other legal documents, sociological information, criminal history information, etc.) must specify what information may be disclosed or restricted, the conditions under which the records may be reviewed and the duties and responsibilities of the “custodian” consistent with appropriate statutes of the Annotated Code of Maryland. Certain information may be released without permission such as directory information (e.g., name, age, court of jurisdiction, offense, sentence, date of enrollment, address of record, etc.). Persons are to be provided the opportunity to examine, copy, challenge the accuracy of, and request the amendment or expungement of information contained in case files according to established guidelines. Records of all reviews must be maintained on file, including denials and appeals.

C. CASE RECORDS

The monitoring agency shall have a written policy and procedure establishing a case record for a monitored individual, which includes provisions for:

- (1) Secure storage in a manner which prevents unauthorized access by a monitored individual,
- (2) Specification of file content and order,
- (3) A signature and date on documents and entries,
- (4) Daily backup of, and date and author’s identity on, electronic documents, and
- (5) Establishment of a records retention schedule with documentation of dispositions.

Compliance Criteria

Written policy and procedure inclusive of all elements; case file review; review of computer files; staff interviews; observation.

Compliance Explanation

Case records represent a limited history of monitored individuals. Case information may provide the monitoring agency and staff with information to serve as a resource to assist in decision-making regarding program planning. Case records should be fastened and organized in a uniform fashion with standardized forms, designated contents and specification of an established format/sequence/order to separate particular functional areas (i.e., community activities, employment information, progress notes, court documents, medical matters, etc.). This process will assist staff in locating pertinent information, filing properly and identifying gaps in documentation. All noteworthy entries and significant documents are to be signed and dated to ensure proper accountability, and to minimize the potential consequences of litigation and legal liability. Daily electronic information must be backed up and secured. A schedule for records retention must be established.

D. RECORDS OF FEE PAYMENTS

The monitoring agency shall have a written policy and procedure ensuring the maintenance of payment records showing receipts of payments of fees.

Compliance Criteria

Written policy and procedure; case record review; financial records and receipts; schedule fee payment method.

Compliance Explanation

Maryland law requires that all monitored individuals are charged for home detention services. Records must be maintained reflecting the payment of such fees through receipts for services rendered. Receipts should include, at a minimum, the monitored individual's name, the amount paid, the date of the payment, the dates covered by the payment and the signature of the monitor. A receipt should be issued to the monitored individual.

E. ELECTRONIC RECORDS

The monitoring agency shall have a written policy and procedure ensuring that electronic or paper records of the monitoring of a monitored individual shall be available:

- (1) To an appropriate authority as soon as possible, but in not more than two working days, and
- (2) For at least three years after the monitored individual completes the

monitoring program or until the next audit by the Maryland Commission on Correctional Standards, whichever is later.

Compliance Criteria

Written policy and procedure; observation.

Compliance Explanation

The monitoring agency shall ensure that accurate and consistent records are kept of the electronic monitoring of an individual, which may be audited during program participation, or after program termination. Records of monitoring activities may be stored on disk or electronic tape at the monitoring agency's office or service provider's location. In either case, information on the monitoring activities of an individual should be made available as soon as possible to the requesting authority, but not later than two business days from the date of request. These records must be maintained for at least three years after the monitoring is terminated or until the next audit, whichever is later.

F. RECORDS RETENTION

The monitoring agency shall have a written policy and procedure providing for the retention of a monitored individual's case record for not less than three years after the completion of the monitoring services.

Compliance Criteria

Written policy and procedure; review of records retention schedule; observation.

Compliance Explanation

Information that might be considered relevant or important should be maintained in an individual's file for not less than three years after the completion of monitoring. Such information includes, but is not limited to, the court order, documentation accounting for the individual's activities when not electronically monitored, enrollment information and termination documents. Because storage space for inactive records may be limited, procedures must be developed to establish a schedule for the transfer or destruction of case information that is designated as no longer having relevance or importance. Records are to be maintained on file to document such transfer/destruction to ensure accountability.

.05 GENERAL ADMINISTRATION

A. OFFICE SECURITY

The monitoring agency shall have a written policy and procedure ensuring that the monitoring agency office is secure when not occupied.

Compliance Criteria

Written policy and procedure; observation.

Compliance Explanation

Any unusual activity in or around the private home detention office should be reported to the local police authorities and documentation maintained. A specification of persons authorized access to the office and office keys must be documented. Every effort should be made to protect the office, and its contents, from damage. Any breach of office security that results in the loss or destruction of the license certificate must be reported in writing to the Secretary, via the administrative authority, within five working days of the incident.

B. UPDATES OF TELEPHONE AND PAGER NUMBERS

The monitoring agency shall ensure that the Secretary, via the administrative authority, receives updates as to changes in telephone numbers and pagers for use during both business and nonbusiness hours.

Compliance Criteria

Office records.

Compliance Explanation

It is necessary that current telephone and pager numbers be registered with the Secretary, via the administrative authority, to allow contact with the monitoring agency at any time. A change in telephone and/or pager numbers used during business and nonbusiness hours must be reported to the Secretary, via the administrative authority, within five working days from the date of the change.

C. ELECTRONIC MONITORING EQUIPMENT

The monitoring agency shall have a written policy and procedure governing the availability, storage, and use of electronic monitoring equipment, which includes provisions for:

- (1) Secure storage, making equipment inaccessible to a monitored individual,
- (2) Visual inspection of equipment worn by the monitored individual to determine its condition not less than once per month,
- (3) A master listing and inventory,
- (4) Availability of at least one complete backup unit for every twenty-five units in use,
- (5) Responses to system malfunctions,
- (6) Restricted password access to authorized staff of base station hardware, and
- (7) Maintenance and cleaning of equipment.

Compliance Criteria

Written policy and procedure addressing all elements; observation of storage area(s); monthly inspection records of equipment in use; an up-to-date listing and inventory of all equipment; inventory of backup equipment; work orders for equipment service or repairs; written designation of persons authorized access; equipment maintenance records; observation.

Compliance Explanation

Electronic monitoring equipment must be stored in a manner which ensures that it is inaccessible to unauthorized persons. Secure storage can include a safe, locked cabinet or drawer, vault, locked closet or other depository, which is under close supervision. Electronic monitoring equipment must be tested and inspected prior to use. A current listing and inventory of equipment are necessary to ensure accountability. Stock equipment must be maintained as backup to equipment in use. A visual inspection of equipment currently in use is required to ensure operability. Access to emergency maintenance requirements when the system malfunctions is essential. Only authorized staff can have access to base station hardware. Provisions must be made to clean and maintain equipment. In addition, the monitored individual may be financially responsible for damage or loss of assigned electronic monitoring equipment. The monitored individual should sign an acknowledgement

of the receipt, possession and return of electronic monitoring equipment.

D. CONTRACTS

The monitoring agency shall have a written policy and procedure ensuring that an agreement with a contractor for monitoring services includes provisions for compliance with these standards.

Compliance Criteria

Written policy and procedure; contractual agreement.

Compliance Explanation

A monitoring agency that contracts for monitoring services must ensure, prior to signing a contract for service, that the contractor is aware of, and has the ability to comply with, the standards for private home detention monitoring agencies in Maryland. The document detailing the contractual agreement should explicitly reference the law and regulations governing private home detention monitoring agencies. Copies of such contractual agreements must be maintained on file.

E. AGENCY RELATIONSHIP WITH MONITORED INDIVIDUALS

The monitoring agency shall have a written policy and procedure prohibiting certain relationships with a monitored individual, which includes provisions for the following:

- (1) A monitoring agency or employee may not associate with a monitored individual except in a professional relationship that will support the goals of the program,
- (2) A monitoring agency or employee may not enter into another business relationship with a monitored individual or monitored individual's family during the monitoring,
- (3) A monitoring agency or employee may not employ a monitored individual or member of the monitored individual's family for at least 1 year after the termination of the monitoring,
- (4) A monitoring agency licensee or employee may not engage in criminal conduct or violate these standards, and
- (5) A monitoring agency employee shall maintain confidentiality of records and information regarding a monitored individual.

Compliance Criteria

Written policy and procedure addressing all elements; observation; interviews with staff.

Compliance Explanation

It is important that a professional business relationship is maintained between the monitoring agency and the monitored individual during the time of monitoring. In addition, the monitoring agency is responsible for the acts of each of its employees while the employee is conducting the business of the monitoring agency. Consequently, any action by an employee that is in violation of these regulations may adversely affect the status of the monitoring agency's license.

F. OFFICIAL PUBLICATIONS/ANNUAL REVIEW

The monitoring agency shall have a written policy and procedure for conducting an annual review of policies and procedures and orientation materials and ensuring their availability to staff.

Compliance Criteria

Written policy and procedure; schedules; review documentation; staff interviews.

Compliance Explanation

A frequent and thorough review of all official publications (i.e., regulations, policies, procedures, emergency plans, orientation handbooks, manuals, etc.) is necessary to ensure that they are up-to-date. Such reviews/updates/revisions shall be documented and include the date of review, the signature/initials of the person(s) performing the task and outcome (i.e., retain, modify, rescind, etc.). A regular review of these materials should facilitate the formal incorporation of various changes during the year, prevent the disorganized accumulation of a series of memoranda, and assist in decision-making regarding previously discussed but unresolved matters. The reviews must be routinely scheduled (i.e., anniversary date of implementation, annually on calendar or fiscal year basis, etc.).

G. MONTHLY REPORTS TO THE SECRETARY

The monitoring agency shall have a written policy and procedure detailing the submission of monthly reports on or before the fifteenth day of each month to the Secretary of Public Safety and Correctional Services, via the administrative authority, which includes provisions for:

- (1) The number of monitored individuals being monitored on the first and last days of the month and categorized by the type of monitoring equipment used,
- (2) The number of monitored individuals for whom monitoring was initiated during the month and categorized by the type of monitoring equipment used,
- (3) The number of monitored individuals for whom monitoring was terminated during the month and categorized by the type of monitoring equipment used,
- (4) The number of monitored individuals cited for violating the court order or program rules requiring monitoring,
- (5) The number of monitored individuals removed from monitoring for one or more violations and categorized by the type of monitoring equipment used, and
- (6) The number of escapes and instances in which a monitored individual was unaccounted for, absent from an approved location, or whose location was unknown within the following time frames:
 - (a) Less than two hours,
 - (b) More than two hours, but less than twenty-four, and
 - (c) Twenty-four hours or more to include written notification to the appropriate authority as required by law.
- (7) Copies of notification letters mailed to the court in cases of escapes and instances of twenty-four hours or more as required by law.

Compliance Criteria

Copies of monthly reports with copies of court notifications attached.

Compliance Explanation

Monthly reporting of specific information is required by the Secretary of the Department of Public Safety and Correctional Services to routinely monitor certain activities of the monitoring agency. This information is to be received by the administrative authority no later than the fifteenth of the month on activity relating to the previous month. Any errors reported must be corrected in writing within five working days from the date of the report.

H. TAX AND CORPORATE RECORDS

The monitoring agency shall ensure that all corporate and tax records mandated by the laws of the state of Maryland are continually maintained.

Compliance Criteria

Review of corporate and tax records.

Compliance Explanation

To continue the operation of a private home detention monitoring agency corporate records must be maintained, taxes paid and copies of these records must be available for review. Tax records must be maintained indicating that the monitoring agency has paid all withholding and social security taxes and all other obligations employers are required to pay on behalf of their employees to the state or federal government. The monitoring agency must be in compliance with the requirements of the State Workers' Compensation Commission as well as having paid the required state income tax. These records, documents and certificates are required at the time application is made for license renewal.

I. INSURANCE

The monitoring agency shall ensure that general liability insurance in an amount not less than \$100,000 is continually maintained.

Compliance Criteria

Review of general liability insurance, including expiration date, if any.

Compliance Explanation

Private home detention monitoring agencies are required to have general liability insurance covering all activities of the monitoring agency. The Secretary of the Department of Public Safety and Correctional is to be listed as a certificate holder and is to be notified via the administrative authority, within five working days, if the policy is canceled, forfeited or terminated.

J. BOND

The monitoring agency shall execute and maintain a surety bond of at least \$2,500.

Compliance Criteria

Certificate of bond.

Compliance Explanation

A bond is required for licensing and operating a private home detention monitoring agency under the Business Occupations and Professions Article, § 20-601, Annotated Code of Maryland. The surety bond is to be submitted along with the application. A licensee is to keep this bond in effect at all times. If a licensee's bond is canceled, forfeited or terminated by the surety, the surety must notify the Secretary immediately. If a surety fails to notify the Secretary as required, the bond shall continue in effect until the notice is given to the Secretary.

K. STAFF TRAINING

The monitoring agency shall have a written policy and procedure governing the training of all staff, consisting of education in the monitoring agency's policies and procedures and instruction in the use of electronic monitoring equipment.

Compliance Criteria

Training records; written acknowledgment by staff; staff interviews.

Compliance Explanation

All monitoring agency licensees must be trained by either the manufacturer or authorized representative of the electronic monitoring equipment used. All monitors must be trained by either the manufacturer or authorized representative, or by an individual from the monitoring agency who has been trained by the manufacturer or authorized representative, of the electronic monitoring equipment used. All monitors must also be trained in the monitoring agency's policies and procedures. Training must occur prior to a person becoming a monitor. Documentation of training must be submitted to the Secretary with the application for licensure, prior to the hiring of a person as a monitor, and/or prior to a person becoming a monitoring agency licensee.