



**NEW YORK STATE**  
**Unified Court System**

**JUSTIN A. BARRY**  
CHIEF CLERK

**CRIMINAL COURT OF THE CITY OF NEW YORK**

**OPERATIONAL DIRECTIVE**

**NUMBER:** 2020-05

**FROM:** Justin A. Barry *JB*

**EFFECTIVE DATE:** April 20, 2020

**SUBJECT:** Electronic Monitoring (COVID-19 Procedure)

Effective April 20, 2020, the New York City Sheriff will begin an electronic monitoring (EM) program that may be used as a condition of non-monetary conditions of release pursuant to CPL 510.40 (4) (a).

Implemented during the current public health emergency in which arraignments are conducted by videoconference, in New York City Criminal Court electronic monitoring will not be available as a securing order condition at arraignments and will only be considered for defendants for whom bail was set at arraignment and are being held in a local jail in lieu of bail.

Electronic monitoring will also be available for Supreme Court defendants. There is currently no limitation on which Supreme Court defendants may be considered for electronic monitoring and the Supreme Courts will develop their own procedures and processes for handling these applications.

At the time of implementation, a limited number of electronic monitoring units will be available.

**Procedure (Criminal Court)**

***Determination, Application and Intake***

1. At arraignment, either party may request, or the Court may *sua sponte* consider, electronic monitoring for a defendant charged with a bail qualifying offense. If the Court determines at arraignment that the defendant may be a suitable candidate for electronic monitoring, the Court will arraign defendant, set appropriate bail and indicate on the record that it will consider an electronic monitoring securing order, if Sheriff reports that the defendant is an appropriate candidate. The Court will adjourn the matter for thirty days or other appropriate adjournment period.

2. The arraignment clerk will complete and send Sheriff CRC 3321 Electronic Monitoring Candidate Advisory by email to [SheriffEM@finance.nyc.gov](mailto:SheriffEM@finance.nyc.gov) and [SheriffOps@finance.nyc.gov](mailto:SheriffOps@finance.nyc.gov) and include CRC 3321 in court folder.
3. The Sheriff will arrange a video interview with defendant (with defense counsel, when applicable) through the Department of Correction (DOC), as soon as practicable.
4. If the Sheriff determines the defendant is not a suitable electronic monitoring candidate, no further action will be taken and the defendant's matter will remain on the calendar for the previously scheduled date.
5. If the Sheriff determines the defendant is a suitable electronic monitoring candidate, the Sheriff will notify defense counsel; annotate CRC 3321 and scan and email the form to the Court's Citywide Special Applications Coordinator at [special.app@nycourts.gov](mailto:special.app@nycourts.gov)
6. Defense counsel will contact the appropriate prosecutor's office and determine the appropriate assistant district attorney to participate in a special application part appearance and send an email request for appearance to the Citywide Special Applications Coordinator at [special.app@nycourts.gov](mailto:special.app@nycourts.gov) with the following information:
  1. Applying Attorney's Name
  2. Applying Attorney's Telephone Number
  3. Applying Attorney's Email Address
  4. Opposing Party's Name
  5. Opposing Party's Telephone Number
  6. Opposing Party's Email Address
  7. Nature of Application
  8. Defendant's Name
  9. Docket #
  10. NYSID #
  11. Interpreter language, if required
  12. Production of the defendant by video required
  13. Requested date(s) to have application heard (where applicable, applying party must coordinate with opposing party)
7. The Citywide Special Applications Coordinator will schedule a video calendar appearance with judge, defendant, defense counsel, assistant district attorney, local clerk and Sheriff ([SheriffEM@finance.nyc.gov](mailto:SheriffEM@finance.nyc.gov) and [SheriffOps@finance.nyc.gov](mailto:SheriffOps@finance.nyc.gov)).

8. At the appearance in the Citywide Special Applications Part, the Court will determine whether it will modify securing order to release under nonmonetary conditions with electronic monitoring.
9. If the Judge decides to modify the securing order, the local clerk will execute and send the following documents by email to the Sheriff ([sheriffEM@finance.nyc.gov](mailto:sheriffEM@finance.nyc.gov) and [SheriffOps@finance.nyc.gov](mailto:SheriffOps@finance.nyc.gov)).
  - a. CRC 3314 COVID Conditions of Nonmonetary Release Securing Order with
    - i. applicable conditions checked in “Electronic Monitoring” under supervision of “Sheriff” for the ordered period (e.g., 60 days);
    - ii. in the line underneath “Electronic Monitoring,” indicate “Specific conditions contained in attached CRC 3318;” and
    - iii. check the box indicating “This securing order will only take effect...;”
  - b. CRC 3318 Order Related to Conditions of Electronic Monitoring with the appropriate conditions checked (in the defendant’s signature line, the clerk will annotate “Defendant appeared by video” and check the box “Defendant unavailable for signature and advised of conditions in Court);” and
    - i. During the current public health emergency in most instances, the following conditions should be checked:
      1. Period of order should be for 60 days;
      2. First check box – “The defendant will be fitted with and/or assigned the EM equipment;”
      3. Third check box – “EM Bracelet;”
      4. Eleventh check box – “Home Confinement/Detention;”;
      5. Thirteenth check box – “Court attendance on...;”
      6. Fourteenth check box – “Medical Appointments;” and
      7. Fifteenth check box – “Regular approved free time ..” 1-2 hours per day.
  - c. CRC 3310 Change in Status/Release from Custody

10. The Sheriff will arrange with DOC a time to affix the electronic monitoring bracelet on the defendant at the local jail and deliver CRC 3310 to facilitate immediate release of defendant.
11. If the defendant does not fully cooperate and participate in the programming and installation of the electronic monitoring device, the previous bail/remand securing order will remain in effect and the Sheriff will notify the Court.

### ***Monitoring and Completion***

12. Sheriff will produce a summary compliance report at the conclusion of every securing order period (e.g. every sixty days), and provide a copy to court, defense, and prosecution.
13. When the Court modifies the securing order removing defendant from electronic monitoring, the defendant may remove bracelet/delete app, must return all EM equipment within 48 hours of release

### ***Violations***

14. For minor violations, the Sheriff will notify the court by completing CRC 3319 Notification of Violation of Electronic Monitoring Condition and scanning it to the Citywide Special Applications Coordinator at [special.app@nycourts.gov](mailto:special.app@nycourts.gov) and the coordinator will confer with the appropriate Supervising Judge for appropriate action.
15. For serious violations, in the Sheriff's discretion, one of the following actions may be taken to facilitate taking the defendant into custody:
  - a. Sheriff will complete CRC 3319 Notification of Violation of Electronic Monitoring Condition and scan it, along with the ordered CRC 3318, to the Citywide Special Applications Coordinator at [special.app@nycourts.gov](mailto:special.app@nycourts.gov) with an indication in the email message and subject heading that a bench warrant is requested. Upon receipt, the Citywide Special Applications Coordinator will consult with the appropriate Supervising Judge. Should the Supervising Judge or designee grant the application, the judge will direct the signing of the declaration of delinquency on the bottom of CRC 3318, which will be made part of the court folder; the local clerk will enter the bench warrant in the Universal Case Management System; and NYPD will execute the bench warrant during their normal processes; or
  - b. For the most serious violations, the Sheriff may make an arrest for PL 215.50 (3) (a DAT offense) and during the processing of the arrest at the precinct, the Sheriff may apply for a bench warrant using the expedited process listed below and, upon granting, NYPD will execute the bench warrant, which will covert processing of the arrest to online (per CPL 150.20 (1) (b) (i)).

- i. Expedited Process – Sheriff will contact the appropriate county arraignment clerk supervisor at the arraignment hot line listed below and send an email to the clerk supervisor with the completed CRC 3319 Notification of Violation of Electronic Monitoring Condition, along with ordered CRC 3318 and completed but unsigned CRC 3320 Bench Warrant, attached. The arraignment judge will review and determine whether to sign the declaration of delinquency. If the Judge directs signing of the declaration of delinquency, the clerk will sign CRC 3320 at the judge’s direction and scan back to the sheriff; and subsequently enter the warrant into UCMS.
1. Bronx – Sunday – Saturday, AR1/AR4 9:00 AM – 5:00 PM, AR3 5:00 PM – 1:00 AM. Arraignment hotline 718 618 3073
  2. Kings – Sunday – Saturday, AR1/AR4 9:00 AM – 5:00 PM, AR3 5:00 PM – 1:00 AM. Arraignment hotline 718 643 5296
  3. New York – Sunday – Saturday, AR1/AR4 9:00 AM – 5:00 PM, AR3 5:00 PM – 1:00 AM. Arraignment hotline 212 374 3126
  4. Queens – Sunday – Saturday, AR1/AR4 9:00 AM – 5:00 PM, AR3 5:00 PM – 1:00 AM. Arraignment hotline 718 298 0737
  5. Richmond – Sunday – Saturday AR1/AR4 9:00 AM – 5:00 PM  
Arraignment hotline 718 675 8516 (after hours application may be made to Kings County)