



Poder Judiciário

Conselho Nacional de Justiça

RESOLUTION 412 OF AUGUST 23rd. 2021

It Establishes guidelines and procedures for the application and supervision of the measures concerning the electronic monitoring of people.

THE PRESIDENT OF THE NATIONAL COUNCIL OF JUSTICE (CNJ), in the use of his legal and regimental attributions,

CONSIDERING the American Convention on Human Rights, especially its dispositive normatives that guarantees the right to individual integrity, as well as the individualization of the sentence, with a focus on social rehabilitation, prohibiting cruel, inhuman, or degrading treatment (arts. 4 and 5);

CONSIDERING the United Nations Standard Minimum Rules for the Treatment of Prisoners - "Nelson Mandela Rules" -, the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders - "Bangkok Rules" - and the United Nations Standard Minimum Rules for Non-custodial Measures - "Tokyo Rules;"

CONSIDERING the requirements of Decree-Law No. 3689/1941 - Code of Criminal Procedure -, and Law No. 7210/1984 - Criminal Execution Law, which provides for the electronic monitoring of people, regulated by Federal Decree No. 7627/2011;

CONSIDERING the dispositive normative of the Code of Criminal



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Procedure that provides for precautionary measures other than imprisonment, with wording granted by Law No. 13.964/2019.

CONSIDERING the recognition, by the Brazilian Supreme Court, of the unconstitutional situation of the Brazilian prison system (ADPF¹ No. 347);

CONSIDERING the entry of the Binding Legal Precedent no. 56 of the Brazilian Supreme Court, according to which the lack of adequate penal facilities does not authorize the convict's maintenance in a more restrictive sentence, observing the parameters established in the judgment of the Extraordinary Appeal n°. 641.320/RS², whose instrument resolved that, in the case of shortage accommodations, the following must be determined: (i) the early release of a convict from the facility with a lack of accommodations; (ii) electronically monitored liberty for convicts who were released earlier or under house arrest due to lack of accommodation; and (iii) compliance with non-custodial penalties and/or educational measures for the convict who progresses to open custody prison;

CONSIDERING the reports produced by the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT/OP/BRA/R.1, 2011), the UN Working Group on Arbitrary Detention (A/HRC/ 27/48/Add.3, 2014), as well as the report on measures to reduce the use of provisional detention in the Americas, Inter-American Commission on Human Rights, Organization of American States (2017);

CONSIDERING General Recommendation No. 31 of the United Nations Committee on the Elimination of Racial Discrimination (2005) on the prevention of racial discrimination in the management and functioning of the criminal justice system;

¹ ADPF: Claim of Non-compliance with a Fundamental Precept Law Suit

² RS: Brazilian state of Rio Grande do Sul.



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CONSIDERING the provisions of CNJ Resolution No. 213/2015, which provides for the presentation of every arrested person to the judicial authority within 24 (twenty-four) hours, especially Protocol I, which establishes guidelines for the application and monitoring of precautionary measures other than imprisonment, in addition to guidelines for managing the Electronic Monitoring Centers;

CONSIDERING Resolution No. 5/2017, of the National Council of Criminal and Penitentiary Policy (CNPCCP), which provides for the policy for implementing electronic monitoring;

CONSIDERING the 2015 and 2017 Diagnostics on the Electronic Monitoring Policy, as well as the Management Model for Electronic Monitoring Policy of People, published by the National Penitentiary Department (Depen), Ministry of Justice and Public Security;

CONSIDERING the deliberation of the CNJ's Plenary session, in the Act Procedure No. 0006097-45.2020.2.00.0000, 336th Ordinary Session, held on August 17, 2021;

DELIBERATES:

Art. 1st To establish guidelines and procedures for the application and supervision of the measure concerning the electronic monitoring of people.

Art. 2nd Electronic monitoring is comprehended as a set of mechanisms to restrict the freedom of persons under precautionary measures or convicted by a final and unappealable decision executed by technical means that allow their geographic location to be indicated.

Sole paragraph. The application and enforcement of the electronic



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monitoring measure of people in the pre-procedural, criminal procedure, and enforcement of the sentence are ruled by the principles and following methods provided for in Protocol I of CNJ Resolution No. 213/2015, in this Resolution and the protocol attached thereto.

Art. 3rd Electronic monitoring shall be applied in the following cases:

- I – precautionary measure other than imprisonment;
- II – temporary release when in the semi-open custody;
- III – early release from the penal facility, combined or not with house arrest;
- IV – precautionary house arrest;
- V – house arrest replacing the closed custody sentence, exceptionally, and the semi-open custody; and
- VI – Restraining orders in cases of domestic and family violence;

§ 1 Whenever the circumstances of the case permit, priority shall be given to the application of a less restrictive measure than electronic monitoring.

§ 2 The determination of house arrest of a precautionary nature, in cases of early release or substitution of the deprivation of liberty in a penal facility, shall be combined with the electronic monitoring measure, through a reasoned decision that indicates the need and adequateness to the concrete case, considering the provisions of art. 9th.

§ 3 The hypotheses provided for in the *caput* shall be adopted as a measure to control the prison occupancy in penal facilities in cases where the maximum capacity is above their limits, only in exceptional situations.

§ 4 People under 18 (eighteen) years of age and those up to 21 (twenty-one) years of age, submitted to specialized on childhood and juvenile legislation, will not be submitted to the electronic monitoring measure.

Art. 4th The electronic monitoring, in the event of a precautionary measure other than imprisonment, must comply with CNJ Resolution No. 213/2015 art. 10, *caput*.



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Sole paragraph. The measure will be exceptional and replace provisional detention, being applied for a determined duration, recommending a maximum period of 90 (ninety) days for reassessing the need for maintenance for the same period, following the provisions of art. 316, sole paragraph, of the Code of Criminal Procedure.

Art. 5th In cases of temporary release in semi-open custody the electronic monitoring measure shall be determined through a decision that indicates the need and adequacy of the specific case, recommending the reassessment of the measure when there is no previous non-compliance situation.

Art. 6th The period during which the person is submitted to electronic monitoring in cases of early release or substitution for deprivation of liberty in a penal facility, with the regular observation of the assessed prerequisites, will be considered as the time of serving the sentence, guaranteeing that the total period of its application does not exceed the time to fulfill the objective requirement for the progression to a less restrictive custody measure.

Sole paragraph. The electronic monitoring measure provided for in the *caput* shall be applied for a specified duration, recommending a maximum period of 180 (one hundred and eighty) days to reassess the need for its upkeep for a shorter or equal period.

Art. 7th Electronic monitoring in domestic and family violence cases seeks to enhance the inspection of compliance with the measures determined based on art. 22, II and III, of Law 11.340/2006.

§ 1 The limits of the exclusion area shall consider the specific case and seek to comply with the requirements of the *caput* of art. 9 of this Resolution.

§ 2 It is advised to provide for the person in a situation of domestic and family violence with the usage of a Mobile Inmate Tracking (UPR), with or without a device for direct activation of public security agencies, as an additional instrument to the monitoring services, to create dynamic exclusion areas.

§ 3 Restraining orders will be maintained, as long as necessary, even in the case of refusal or unavailability to use the UPR, from fixed exclusion areas, determined in court.



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§ 4 It is recommended that perpetrators of domestic and family violence against women shall be directed to reflective group programs, psychosocial support, and other services provided for in Law 11,340/2006.

Art. 8 The electronic monitoring measure will seek to ensure the execution of activities that contribute to the social insertion of the monitored person, especially:

I – study and work, including active pursuit, informal work, and work that requires commuting;

II - health care and regular acquisition of essential items for subsistence;

III – activities related to caring for children and family members; and

IV – the presence at religious activities.

Sole paragraph. Priority will be given to the adoption of measures other than electronic monitoring, together with voluntary referral to the social protection network, in cases where:

I - the socioeconomic circumstances of the investigated, defendant, or convicted person prevent the appropriate functioning of the equipment, such as:

a) when dealing with a homeless person; and

b) in the case of a person residing in a house without a regular electricity supply or with limited or unstable coverage regarding the technology used by the equipment;

II- – the conditions of the investigated, defendant or convicted person make the measure exceptionally burdensome, due to travel difficulties, physical conditions, or the need to provide care to third parties, such as:

a) when dealing with elderly people;

b) when dealing with people with disabilities;

c) when dealing with people with a serious illness; and

d) in the case of a pregnant woman, lactating woman, mother, or person responsible



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for a child up to 12 (twelve) years old or a person with disabilities.

III- the circumstances of the investigated, defendant, or convicted person affect compliance with the measure, due to cultural matters, difficulty in comprehending the operation of the equipment, or the eventually imposed conditions, such as:

- a) mental health condition;
- b) abusive use of alcohol or other drugs; and
- c) when dealing with Indigenous people or members of traditional communities.

Art. 9 When determining the electronic monitoring measure, the judge will issue the respective warrant, following the model attached to this resolution, establishing, is there are technical conditions, the collection of biometrics to update the civil identification and the collection of genetic material, according to Article 9-A of the Criminal Execution Law.

Sole paragraph. In up to 180 (one hundred and eighty) days, the CNJ will enable the issuance of the monitoring warrant by the computerized procedural processing systems.

Art. 10. The Judiciary will maintain a constant dialogue with the Electronic Monitoring Center about the availability of monitoring equipment.

§ 1 If there is no equipment available for immediate installation upon release order imposing the electronic monitoring measure, the person will be subpoenaed to appear at the competent body for installation on the first following working day.

§ 2 In case of unavailability of equipment, the court must be notified.

Art. 11. The competent judge will guarantee that the monitoring of the measure by the Electronic Monitoring Center, within the scope of the Executive branch, follows the procedures provided for in CNJ Resolution No. 213/2015 and the Protocol attached to this Resolution, in particular:



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I – the monitoring of the conditions specified in the judicial decision, being forbidden the central to request conditions that are not included in the pronouncement;

II – priority to compliance, maintenance, and restoration of the measure as determined in court, including incidents, being the contact with the judicial authority subsidiary and exceptional, under the terms of the following article and the Protocol attached to this Resolution;

III – the operation of multidisciplinary teams, responsible for qualifying the treatment of incidents, mobilizing the social protection services network, and collaborating in the monitoring of judicially established measures, based on individualized interaction with the people being monitored; and

IV – the adoption of appropriate standards of security, secrecy, protection, and use of the data of the people being monitored, respect the data processing following the purpose of data collection, under the terms of art. 13.

Art. 12. The treatment of incidents occurring during electronic monitoring will observe the Protocol attached to this Resolution, adhering to the acts strictly essential to comply with the imposed measure, to promote the efficiency and pace of the jurisdictional activity.

§ 1 It will be considered an incident, any situation that interferes with the regular compliance with the electronic monitoring measure, in accordance with the established in court.

§ 2 The incidents will be dealt with gradually, aiming to ensure the maintenance of the measure in the terms specified in court and respecting, at all phases, the principles of due process, right to the defense, and penal proportionality.

§ 3 Once the tools provided for in the protocol have been exhausted, in the attempt to reestablish regular compliance with the measure, without settling the incident, the central will notify the court describing the measures adopted, which may designate a justification hearing.

§ 4 In cases of electronic monitoring applied in situations of



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domestic and family violence, the center shall preventively contact the public security agencies in specific incidents, observing the procedure provided for in the protocol.

Art. 13. The data collected during the observance of electronic monitoring measures have a specific objective, related to compliance with the conditions established in court, can be used as evidence for criminal investigation, and are, in any case, covered by the right provided for in art. 5th, X, of the Brazilian Federal Constitution and the personal data protection legislation.

§ 1 The electronic monitoring information recording systems will be structured to preserve the secrecy of the data and information of the monitored person, the person in a situation of domestic and family violence, and third parties.

§ 2 The sharing of data, including with public security institutions, will rely on judicial authorization, upon representation of the police authority, or a request from the Public Prosecutor's Office.

§ 3 In exceptional situations in which there is an imminent risk to life, public security agencies shall directly request the Electronic Monitoring Center to provide the real-time location of the monitored person, in which case the judicial control of data sharing will be conducted later.

§ 4 In the hypotheses aforementioned, the sharing of data carried out in exceptional circumstances will be formally registered, with information on the date and time of treatment, the identity of the professional who obtained and who granted access to the data, the justification presented, as well as which data are processed, to allow control, in addition to possible auditing.

§ 5 The information mentioned in the previous paragraph will be forwarded by the Electronic Monitoring Center to the competent court within 24 (twenty-four) hours after sharing.

§ 6 In cases of specific incidents occurring within the scope of restraining orders, the Electronic Monitoring Center shall preventively contact the public security agencies and share the data related to the identification and location of the monitored person, under the terms of the Protocol attached to this Resolution.

§ 7 The Monitoring Center will keep the data collected during the observance of electronic monitoring measures for a period of 6 (six) months after the end of the measure.



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§ 8 The data owner has free access to the entirety of the data produced during the observance of electronic monitoring measures and to the facilitated consultation on the format and duration of the treatment.

Art. 14. The courts will issue the necessary acts and assist the judges in complying with this Resolution, considering the local reality, and may conduct the agreements and actions necessary for its full compliance.

Art. 15. The monitoring compliance with this Resolution will have the technical support of the Department of Monitoring and Inspection of the Prison System and the Socio-educational Measures.

Art. 16. This Resolution takes effect on the date of its publication.

Minister **LUIZ FUX**



ANNEX TO RESOLUTION No. 412, OF AUGUST 23, 2021.

PROTOCOL OF GUIDELINES AND PROCEDURES FOR THE ELECTRONIC
MONITORING OF PEOPLE

1. INTRODUCTION

This document addresses issues and procedural aspects handled by the resolution on the electronic monitoring measure, detailed here: (i) the issuance of the court order for monitoring; (ii) the actions of the Judiciary working with the Electronic Monitoring Centers, as the body responsible for monitoring the measure; and (iii) incident handling procedures.

The Protocol condenses and synthesizes the knowledge produced in recent years on the subject, highlighting the two National Diagnoses on the Electronic Monitoring Policy and the Management Model for the Electronic Monitoring Policy for Persons (published by the National Penitentiary Department³, of the Ministry of Justice and Public Security, in the years 2015, 2017 and 2018) and CNJ Resolution 213/2015.

2. Court Order

When deciding on the electronic monitoring measure, the judge must issue the respective warrant, in accordance with the attached model, which will contain the following information:

³ Since 2023, The National Penitentiary Department (DEPEN) was renamed to National Secretariat for Penal Policies (SENAPPEN)



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I – qualification of the monitored person;

II – qualification of the person in a situation of domestic and family violence, when applicable;

III – number of case files;



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IV – application hypothesis;

V – initial and final period and final period of the measure;

VI – deadline for reassessing the measure, in cases of criminal enforcement;

VII – areas of inclusion and/or exclusion, when applicable;

VIII – additional conditions imposed on the monitored person, when applicable

IX– the determination that, after the maximum period established, the legal body responsible for monitoring the measure must remove the electronic monitoring equipment, unless otherwise decided by a court.



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The CNJ will enable the issuance of the monitoring warrant through the computerized procedural processing systems within 180 (one hundred and eighty) days after the resolution dispatch.

3. Enactment of the Judiciary with the Electronic Monitoring Centers during the supervision of the measure

The Electronic Monitoring Centers, services established within the scope of the Executive branch, are responsible for supervising the electronic monitoring measures determined by the Judiciary branch.

They act as the judgment *longa manus*, seeking to facilitate compliance with the measure as established in court, respecting the fundamental rights of the monitored person, as well as the jurisdictional competence in imposing conditions, readjustment, and reassessment of electronic monitoring.

The central carries out the daily monitoring of the measure, in contact with the person being monitored, and the competent judge is responsible for ensuring that the following guidelines and procedures are followed:

I – assistance and supervision of the person being monitored, guaranteeing dignified and non-discriminatory treatment;

II – verification of the conditions specified in the judicial decision which defines the electronic monitoring measure, being prohibited the imposition of other measures not expressly described in court;

III – installation of individual electronic monitoring equipment on the person being monitored, providing the necessary explanation and clarification;

IV – upon installation of the equipment on the monitored person, a written document in accessible language must be delivered, which contains:

a) the nature of the applied measure;



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- b) the duration of the measure and the period for reassessment, when applicable;
- c) the rights and obligations to which it is subject;
- d) instructions about the functioning of the equipment;
- e) procedures for incident handling;
- f) Electronic Monitoring Center and Social Protection Network services contact information

V - when providing the UPR (Mobile Inmate Tracking) to a person in a situation of domestic and family violence who decides to use it, hand a document in a written copy in accessible language, which contains:

- a) the nature of the restraining order applied;
- b) the duration of the measure;
- c) rights and instructions about the functioning of the equipment;
- d) Electronic Monitoring Center, the women's protection network services, and other social inclusion network's contact information.

VI – not to set encumbrances or apply penalties to people in situations of domestic and family violence who choose not to use the UPR or who use it incorrectly;

VII – the provision of technical support to the monitored person and the person in a situation of domestic and family violence, through telephone contact and face-to-face assistance, free of charge and uninterrupted, capable of elucidating doubts, providing guidance on the use of the equipment, and dealing with any incidents to properly comply with the measure;

VIII– attention to the complying conditions foreseen in the decision that specified the electronic monitoring, with incidents management that occurred during the enforcement of the measure under the terms of this protocol, through multidisciplinary teams composed, at least, by professionals of Law, Psychology, and Social Service;



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IX– articulation with the social protection network for non-mandatory inclusion of the monitored person and a person in a situation of domestic and family violence, in order to encourage the exercise of rights or to meet circumstantial needs, such as health, food, clothing, housing, transportation, and legal assistance, as well as work and study needs, among others;

X – care for the proper management of personal data obtained through monitoring the measure, developing the adoption of security, secrecy, and protection standards;

XI – Records maintenance about facts and actions resulting from its duties;

XII – uninstallation of the individual electronic monitoring equipment of the monitored person, providing the suitable procedures deriving from the end of the measure; and

XIII – The sending to the competent judgment the certificates of the fulfillment of the electronic monitoring measure and the successful removal of the equipment

3.1. Visits by the Monitoring Centers' servers to the people being monitored



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Article 146-C, I, of the Criminal Execution Law, establishes the duty of the monitored person “receive visits from the server responsible for electronic monitoring, respond to their contacts, and comply with their orientations”.

Visits are conducted exceptionally, in compliance with the principles of necessity, proportionality, reducing damage, criminal liability, and normality, which guide the application and follow-up of the electronic monitoring measure.

Communication between the central and the monitored person is preferably carried out by sending electronic signals to the monitoring equipment or, when necessary, by calling the person or third parties indicated by the person. Additionally, the center can request the presence of the person, guide him/her on any problem that may have emerged in the measure follow-up. The visit by the central team, which has a subsidiary nature, is sought to deal with an unsolved incident, using, preferably, uncharacterized vehicles, to avoid the occurrence's spectacular appearance. Visits, therefore, deal with individual cases of incidents, without a preventive, generalized, or intimidating character.

The competent judge must ensure that the visits are carried out in such a way as not to restrict rights not affected by the decision that determined the measure, nor disproportionate damage to the normal routine of the electronically monitored person or, the rights of third parties, such as family members, neighbors, and friends, avoiding humiliating situations, embarrassment, abusive and disproportionate use of force. The visits must take place in communion with the fundamental rights to the image, honor, and privacy of the person being monitored as well as members of their social circle, respecting the inviolability of the residence (art. 5, X and XI, of the Federal Constitution). In this sense, as a rule, visits to workplaces, study, or the person's home during the night rest are not justified.

4. Incident handling during electronic monitoring



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This item defines the concept of “incident” and shows the applicable criteria in its handling, intending to guarantee the execution of court orders on electronic monitoring in a regular and standardized way.

Furthermore, specific treatments are offered to be carried out in the face of the most common incidents, emphasizing different procedures in cases of restraining orders, under the terms of Law 11,340/2006 (Maria da Penha Law).

Also, it is accompanied by a table with a summary of the procedures described.

4.1. Concept

An incident is defined as any situation that interferes with the regular functioning of the electronic monitoring measure, according to the requirements established in court.

The incidents are part of the ordinary progress of the execution of the electronic monitoring measure and result from two groups of main factors: human conduct and technological limitation. They can occur due to one or more factors cumulatively, including several human acts, failures or imperfections in monitoring equipment, reduced coverage or instability in a cell phone, radio frequency or GPS signals, factors related to local geography, type of vegetation cover, the architecture of buildings, climate variations, among others.



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The concept of "incident", therefore, is comprehensive, including situations caused by force majeure, culpability, and willful misconduct, ranging from the common loss of equipment signal due to the person being in a place with the instability of the cell phone network, to the unjustified disruption of the device. Diagnoses already carried out in the country indicate that a small number of incidents, by their nature, represent a possible non-compliance with the conditions stipulated in the decision that determined the electronic monitoring measure.

Because it is a measure that accompanies the person being monitored day-to-day, sometimes for extended periods, incidents are unavoidable. There may be multiple incidents and they will persist while monitoring lasts. Most of them can be resolved without any intervention by the central staff, such as, for example, simply recharging the battery of the monitoring equipment or its signal restoration. Other incidents, however, require the intervention of the Electronic Monitoring Center team, which works to restore the regular progress of the measure through gradual, multidisciplinary actions and in constant dialogue with the person being monitored.

Due to the diversity of circumstances and possible interventions, with different degrees of relevance for the fulfillment of the measure, it is necessary to propose a structured usage protocol with guidelines for the actions of those responsible for the electronic monitoring, with the aim of preservation of the efficacy and limits of the judicial decision.

4.2. Incident Handling – General Aspects

Incidents are gradually managed, following the principle of minimum intervention, respecting, at all stages, in due process, the presumption of innocence and proportional justice, to ensure compliance and maintenance of the measure, under the terms determined by the court.

Only after exhausting the instruments provided for in this protocol without the solution of the incident will the center notify the competent court,



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which, given the information about the incident and the history of the measures adopted by the center, may designate a justification hearing or take other measures. It is the sole competence of the Judiciary branch to establish whether the incident not resolved by the center conforms a non-compliance with the measure, giving rise to eventual readjustment or revocation, through a new judicial determination.

Consequently, the contact with the public security institutions by the Electronic Monitoring Center is an exceptional activity and focuses primarily on handling specific incidents involving restraining orders, under the terms of the Maria da Penha Law, intending to ensure full protection of a person in a situation of domestic and family violence. The monitored person may only be arrested in *flagrante delicto* or due to an arrest warrant that would be carried out, in the latter case, by a public security institution with legal competence in this matter.

4.3. Incident handling - specific aspects

The most common incidents in electronic monitoring cases are:

- I – movement detection without signal;
- II – battery discharge;
- III – violation of inclusion and/or exclusion areas; and
- IV – violation of electronic monitoring equipment.

Those aspects aforementioned, discuss the general approach on electronic monitoring measures, followed by detailed aspects of electronic monitoring in cases of restraining orders under the Maria da Penha Law, which require a differentiated strategy.

For the other types of incidents, the following recommendations can be used as a reference.



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4.3.1. Movement Detection without signal

The detection of activity without signal can be generated by human conduct and secondary interference factors such as monitoring equipment malfunction, reduced coverage, or instability in mobile and GPS signals, among others.

Because of this, in a significant part of such incidents, the signal can be restored within minutes with the normalization of the system's technical operational conditions, and any intervention by the Electronic Monitoring Center is unneeded.

If the signal does not return within 30 (thirty) minutes:

- a. The registration of the incident in the specific electronic monitoring system, with date, time, and identification of the operational employee;
- b. A light and vibratory signal must be sent to electronic monitoring equipment, 3 (three) times, with intervals of 10 (ten) minutes;
- c. Contacting by phone the monitored person, 3 (three) times, with intervals of 40 (forty) minutes between attempts, informing the incident and the need to return to zones with signal cover;
- d. Contacting by phone the family members, friends, neighbors, and acquaintances who had data shared with the central by the monitored person, 3 (three) times, alternating contact whenever possible, with intervals of 10 (ten) minutes between attempts, to locate the person and inform about the urgency to get in contact with the central.

If the incident remains unresolved, there will be a recurrence of the same procedure within the next 24 (twenty -four) hours.

If the incident remains unresolved after the repetition of the procedures described above, the competent court will be reported, with a detailed record of the attempts made to reestablish the measure regularity. The report will include the date, time, and identification of the operational employee at each stage of the incident handling.

The monitoring signal resumption will be informed to the court



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immediately, to maintain compliance with the imposed measure.

If the monitored person attends at the electronic monitoring center:

- a. Technically qualified employees will inspect the equipment;
- c. If a technical failure in the equipment is detected, there will be a replacement or the exchange of malfunctioning parts;
- c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along the multidisciplinary team to adjust the compliance with the measure;
- d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial measure infringement, seeking ways to mobilize it for proper compliance.

4.3.1.1. Detection of movement without signal in cases of restraining orders

In these cases, it is necessary:

- a. The registration of the incident in the specific electronic monitoring system, with date, time, and identification of the operational employee;
- c. Contacting by phone the monitored person, 3 (three) times, with intervals of 5 (five) minutes between the attempts, informing the incident and the need for an immediate return to the areas with GPS and mobile signal cover. The number of calls can be extended, and the time reduced whenever required and reasonable;
- c. At the same time, sending light and vibratory signals to electronic monitoring equipment, three (3) times, with intervals of 5 (five) minutes;
- d. Contacting by phone the individual in favor of whom the measure was established, with intervals of 3 (three) minutes between the attempts, to locate it and check, by phone, their safety, as determined in court, and alert about the



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eventual geographic proximity of the person monitored;

e. Contacting by phone the family members, friends, neighbors, and acquaintances who had data shared with the central by the monitored person, 3 (three) times, alternating contact whenever possible, with intervals of 5 (five) minutes between the attempts, to locate the person and inform about the urgency to get in contact with the central;

f. Since the beginning of the incident handling, and at any time, the Electronic Monitoring Center may contact the public security agencies preventively, if deemed necessary in the specific case, evaluating the movement and routine patterns of the monitored person and the person in place of domestic and family violence, especially when in use of a Mobile Inmate Tracking (UPR) device, without prejudice to the recurrence of the measures listed above, mainly with technical support from the multidisciplinary team;

g. The incident will be communicated to the competent judgment, with a detailed record of the attempts made to re-establish the regularity of the measure. The report will include the date, time, and identification of the operational employee at each step of the incident handling.

If monitoring signal is reestablished, the central may call the person there, when:

a. Technically qualified employees will inspect the equipment;

b. If a technical failure in the equipment is detected, there will be a replacement or exchange of the malfunctioning parts;

c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along the multidisciplinary team to adjust the compliance with the measure;

d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial measure infringement, seeking ways to mobilize it for proper compliance. e. Submission of notification to the judgement, together with a monitoring report of the measure prepared by the multidisciplinary



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team.

4.3.2. Battery Discharge

Partial discharge or low battery level

- a. The registration of the incident in a specific electronic monitoring system, with date, time, and identification of the operational employee when the system detects the full operation of the battery for only two (2) hours left;
- b. Sending a light and vibratory signal to electronic monitoring equipment 3 (three) times, with intervals of 20 (twenty) minutes.

If the incident remains unresolved for more than 1 (one) hour:

- a. Contacting by phone the monitored person, 3 (three) times, with intervals of 15 (fifteen) minutes between the attempts, informing the incident and the need to recharge the battery.



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Complete battery discharge

- a. Registration of the incident in the specific electronic monitoring system, with date and time;
- b. Contacting by phone the monitored person, 3 (three) times, with intervals of 20 (twenty) minutes between the attempts, informing the incident and the need to recharge the battery;
- c. Contacting by phone the family members, friends, neighbors, and acquaintances who had data shared with the central by the monitored person, 3 (three) times, alternating contact, when possible, with 10 (ten) minutes intervals between attempts, to locate the monitored person and inform it on the urgency of recharging the battery;
- d. Track for 3 (three) hours, checking the reestablishment of the equipment communication with the monitoring system shortly after the beginning of the battery recharge.

If the incident remains unresolved after the recurrence of the procedures for 48 (forty -eight) hours in a row, the competent court will be reported, with a detailed record of the attempts made to restore the regularity of the measure. The report will include the date, time, and identification of the operational employee at each step of the incident treatment.

The restoration of the monitoring signal will be informed to the court.

If the monitored person attends at the electronic monitoring center,
, in cases of partial discharge or complete discharge:



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- a. Technically qualified employees will inspect the equipment;
- b. If a technical failure in the equipment is detected, there will be a replacement or exchange of the malfunctioning parts;
- c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along the multidisciplinary team to adjust the compliance with the measure/
- d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial measure infringement, seeking ways to mobilize it for proper compliance.

4.3.2.1. Battery discharge detection in cases of restraining orders

Partial discharge or low battery level

- a. Registration of the incident in the specific electronic monitoring system, with date and time, and identification of the operational employee when the system detects the full operation of the battery for only one (1) consecutive hour;
- b. A light and vibratory signal must be sent to electronic monitoring equipment 3 (three) times, with intervals of 10 (ten) minutes.

If the incident remains unsolved for more than 30 (thirty) minutes:

- c. Contacting by phone the monitored person, 3 (three) times, with intervals of 10 (ten) minutes between the attempts, informing the incident and the need to recharge the battery.

If the monitored person attends at the center:



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- a. Technically qualified employees will inspect the equipment;
- b. If a technical failure in the equipment is detected, there will be a replacement or exchange of the malfunctioning parts;
- c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along the multidisciplinary team to adjust the compliance with the measure;
- d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial measure infringement, seeking ways to mobilize it for proper compliance.

Complete battery discharge

- a. Registration of incidents in the specific electronic monitoring system, with date and time;
- b. Contacting by phone the monitored person, 3 (three) times, with intervals of 5 (five) minutes between the attempts, reporting the incident and the need to recharge the battery;
- c. Telephone contact with the person in favor of whom the measure was established, with intervals of 3 (three) minutes between the attempts, to locate it and check, by phone, their safety, as determined in court, and alert about the eventual geographical proximity of the person monitored;
- d. Contacting by phone the family members, friends, neighbors, and acquaintances who had data shared with the central by the monitored person, 3 (three) times, alternating contact, when



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possible, with intervals of 5 (five) minutes between attempts, to locate the monitored person and inform it on the urgency of recharging the battery;

- e. Track for 30 (thirty) minutes, checking the re-establishment of the equipment communication with the monitoring system shortly after the beginning of the battery recharge;
- f. Since the beginning of the incident handling, and at any time, the Electronic Monitoring Center may contact the public security agencies preventively, if deemed necessary in the specific case, evaluating the movement and routine patterns of the monitored person and the person in place of domestic and family violence, especially when in use of a Mobile Inmate Tracking (UPR) device, without prejudice to the recurrence of the measures listed above, mainly with technical support from the multidisciplinary team;;
- g. The incident will be communicated to the competent court, with a detailed record of the attempts made to re-establish the regularity of the measure. The report will include the date, time, and identification of the operational employee at each step of the incident handling.

The reestablishment of the monitoring signal will be informed to the court.

When the complete discharge occurs more than once during compliance with the restraining order, the monitored person must attend at the central, where:

- a. Technically qualified employees will inspect the equipment;
- b. If a technical failure in the equipment is detected, there will be a



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replacement or the exchange of malfunctioning parts;

- c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along with the multidisciplinary team, to adjust the compliance with the measure;
- d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial infringement, seeking ways to mobilize it for proper compliance.
- e. Submission of notification to the court, together with a report of monitoring of the measure prepared by the multidisciplinary team.

4.3.3. Violation of the Inclusion or exclusion areas

In the case of the abovementioned incident, it is indicated:

- a. Registration of the incident in the specific electronic monitoring system, with date, time, and identification of the operational employee;
- b. Light and the vibratory signal must be sent to electronic monitoring equipment., three (3) times, with intervals of 10 (ten) minutes;
- c. Contacting by phone the monitored person, 3 (three) times, with intervals of 20 (twenty) minutes between the attempts, reporting the incident and the need to return to the proper areas;
- d. Contacting by phone the family members, friends, neighbors, and acquaintances who had data shared with the central by the monitored person, 3 (three) times, alternating contact, when possible, with intervals of 10 (ten) minutes between attempts, to locate the person and report the urgency to contact the central.



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If the incident remains unresolved, the same procedure will be repeated within 24 (twenty -four) subsequent hours.

If the incident remains unresolved after the repetition of the procedures described above, the competent court will be reported, with a detailed record of attempts to restore the regularity of the measure. The report will include the date, time, and identification of the operational employee at each step of the incident handling.

The re-establishment of the monitoring signal will be informed to the court immediately, to maintain compliance with the imposed measure.

If there is a reestablishment of the monitoring signal, the central may call the person to attend at the central, and the following processes are performed:

- a. Technically qualified employees will inspect the equipment;
- b. If a technical failure in the equipment is detected, there will be a replacement or the exchange of malfunctioning parts;
- c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along with the multidisciplinary team, to adjust the compliance with the measure;
- d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial infringement, seeking ways to mobilize it for proper compliance.

4.3.3.1. Violation of the areas of inclusion and/or exclusion in the cases of restraining order applied under the Maria da Penha Law



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In these cases, the central must proceed as follows:

- a. Registration of the incident in the specific electronic monitoring system, with date and time, and identification of the operator employee;
- b. Light and the vibratory signal must be sent to electronic monitoring equipment., 3 (three) times, with intervals of five (five) minutes;
- c. Contacting by phone the monitored person, 3 (three) times, with intervals of 5 (five) minutes between the attempts, informing the incident and the need to return immediately to the permitted areas. The number of calls may be expanded, and the range fell whenever necessary and appropriate;
- d. Contacting by phone the person in favor of whom the measurement and connection to third parties registered in the system was established, with intervals of 3 (three) minutes between the attempts, to locate and check, by phone, their security, as determined in court, and warn about any geographical proximity of the author of violence;
- e. Contacting by phone the family members, friends, neighbors, and acquaintances who had data shared with the central by the monitored person, 3 (three) times, alternating contact, when possible, with intervals of 5 (five) minutes between attempts, to locate the monitored person and inform it on the urgency to refill the battery;
- f. Since the beginning of the incident handling, and at any time, the Electronic Monitoring Center may contact the public security agencies preventively, if necessary, if deemed necessary in the specific case, without prejudice to the measures listed above;
- g. The incident will be communicated to the competent court, with a detailed record of the attempts made to reestablish the regularity of the measure. The report will include the date, time, and identification of the operational employee at each step of the incident handling.

If the monitored person returns to the determined area, he / she should attend the central, when:



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- a. Technically qualified employees will inspect the equipment;
- b. If a technical failure in the equipment is detected, there will be a replacement or exchange of the malfunctioning parts;
- c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along the multidisciplinary team to adjust the compliance with the measure;
- d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial measure infringement, seeking ways to mobilize it for proper compliance;
- e. A notification will be sent to the court, together with a follow-up report prepared by the multidisciplinary team.

4.3.4. Violation of electronic monitoring equipment

- a. Registration of the incident in the specific electronic monitoring system, with date and time
- b. Contacting by phone the monitored person, 3 (three) times, with intervals of 10 (ten) minutes between attempts, checking the incident and its potential causes, requesting urgent attendance at the center;
- c. Contacting by phone the family members, friends, neighbors, and acquaintances who had data shared with the central by the monitored person, 3 (three) times, alternating the contact, when possible, with intervals of 10 (ten) minutes between attempts, to locate the person and inform about the urgency of contacting the center.



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If the incident remains unresolved, the same strategy will be repeated within the following 24 (twenty-four) hours.

If the incident remains unresolved after repeating the strategies above mentioned, the competent court will be communicated, with a detailed record of the attempts made to reestablish the regularity of the measure. The report will include the date, time, and identification of the operational employee in each incident-handling step.

The reestablishment of the monitoring signal will be informed to the court, to maintain compliance with the imposed measure.

If the monitoring signal is reestablished, the person shall attend at the center, and the following procedures will be conducted:

- a. Technically qualified employees will inspect the equipment;
- b. If a technical failure in the equipment is detected, there will be a replacement or exchange of the malfunctioning parts;
- c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along with the multidisciplinary team, to adjust the compliance with the measure;
- d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial infringement, seeking ways to mobilize it for proper compliance.
- e. A notification will be sent to the court, together with a follow-up report prepared by the multidisciplinary team.

If the person does not attend at the center and the signal is not re-established, the team will notify the court, with a detailed record of the attempts made to re-establish the regularity of the measure. The report will include the date, time, and operator identification of each step in the incident handling.



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4.3.4.1. Violation of electronic monitoring equipment in cases of restraining order applied under the Maria da Penha Law

In the case of the aforementioned incident, it is indicated:

- a. Registration of the incident in the specific electronic monitoring system, with date and time, and identification of the operating employee;
- b. Contacting by phone the monitored person, 3 (three) times, with intervals of 2 (two) minutes between attempts, informing the incident and the need to return immediately to the permitted areas;
- c. Contacting by phone the person in favor of whom the measure was established and call third parties registered in the system, with intervals of 5 (five) minutes between attempts, to locate and verify, by phone, their safety, as determined in court, and alert about the eventual geographical proximity of the person monitored;
- d. Contacting by phone the family members, friends, neighbors, and acquaintances who had data shared with the central by the monitored person, 3 (three) times, alternating the contact when possible, with intervals of 5 (five) minutes between attempts, to locate the person in compliance and inform about the urgency of attend at the center;
- e. Since the beginning of the incident handling, and at any time, the Electronic Monitoring Center may contact the public security agencies preventively, if deemed necessary in the specific case, without prejudice to the measures listed above;
- f. The incident will be communicated to the competent judgment, with a detailed record of the attempts made to re-establish the regularity of the measure. The report will include the date, time, and identification of the operational employee at each step of the incident handling.



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If the monitored person returns to the determined area, they must appear at the center, and the following procedures are carried out:

- a. Technically qualified employees will inspect the equipment;
- b. If a technical failure in the equipment is detected, there will be a replacement or exchange of the malfunctioning parts;
- c. If the equipment shows any technical failure due to intentionally directed intervention, there will be the communication and record of the fact along the multidisciplinary team to adjust the compliance with the measure;
- d. The multidisciplinary team will alert the monitored person regarding the consequences of this judicial measure infringement, seeking ways to mobilize it for proper compliance;
- e. A notification will be sent to the court, together with a follow-up report prepared by the multidisciplinary team.

The procedures exposed in detail are intended to faithfully execute the electronic monitoring measures, under the terms settled by the Judiciary. It seeks to give efficacy to the judicial measure and protect the rights of the monitored people not affected by the pronouncement, and at the same time providing means to the proper safety performance of the Judiciary and Executive bodies involved in the imposition and observance of the measure.



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District Court/Judicial Section _____

Court __ _____

Electronic Monitoring Order N° _____

_____, Federal/District Judge from _____ of the Judicial District/Section _____ of the Court **DETERMINES** the Electronic Monitoring Center to install individual electronic monitoring equipment on the person qualified below.

Process number: _____

1. Qualification of the person being monitored.

Name: __ Social Name: . Gender: _____ Birth Date: day/month/Year

Filiation: _____ Nationality: () Brazilian () Other:

__ Place of Birth/FU: _____ Marital Status: _____ National Identity Card: _____ CPF: _____

Occupation: __ Race/color (person's self-declaration):

() White, () Brown, () Black, () Yellow, () Indigenous*



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* Consider the art. 8th, sole paragraph, item III, item “c”, of CNJ Resolution no. 412/2021 and, alternatively, CNJ Resolution no. 287/2019, regarding the registration of personal information (Art. 4o).

2. Application hypothesis

- 2. Pre-trial Non-custodial measures combined with house arrest.
- 3. Temporary release in semi-open custody.
- 4. Early release from the closed custody.
- 5. Early release from the closed custody combined with house arrest.
- 6. Early release from the semi-open custody combined with house arrest.
- 7. House arrest substituting the closed custody.
- 8. House arrest substituting for the semi-open custody.
- 9. Restraining Order, Law no. 11.340/2006 – Maria da Penha Law

3. Term

Measurement start date: day/month/year



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Measurement end date: day/month/year

Comments:

- After the period established for the end of the measure, the Electronic Monitoring Center must uninstall the equipment, unless otherwise determined by the court

4. Conditionalities

Conditionalities description:

Comments:

- The Electronic Monitoring Center must not set other conditionalities not established in the court decision.

- The observance of the electronic monitoring by the central must be carried out in compliance with the judicially determined conditionalities, in a way that is adequate to the effective conditions of compliance by the person being monitored, concerning:

a) time restrictions;

b) inclusion and exclusion areas, when applicable;

c) face-to-face attendance at the central;

d) exercise of the following activities: work, including informal work and work that requires commuting; study; regular acquisition of items



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necessary for subsistence; health care; attending religious activities; activities related to caring for children and family members; other types of commuting compatible with the objective of promoting social reintegration and the exercise of citizenship.

- If the multidisciplinary team of the Electronic Monitoring Center identifies that the electronic monitoring measure and/or the judicially imposed conditionalities do not suit the conditions of compliance of the monitored person, it must present technical subsidies to the court, to allow the measure to be reassessed.

5. Duties of the person being monitored.

The duties to be observed by the monitored person are:

- (I) Observe the conditionalities imposed in the court decision, particularly in relation to the inclusion and exclusion areas, when applicable.
- (II) Contact the Electronic Monitoring Center if you notice a defect or failure in the monitoring equipment, or if exceptionally you must leave the stipulated perimeter.
- (III) Inform the Electronic Monitoring Center of any changes in hours or addresses regarding places of residence, work, study, and health care, among others.
- (IV) Respond to the contacts of the employee responsible for electronic monitoring and comply with his/her instructions.
- (V) Withhold from removing, tampering with, modifying, or damaging electronic monitoring equipment or allowing anyone else to do so.



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6. Incident handling and data protection

To faithfully comply with the decision that determined the present electronic monitoring measure, the Electronic Monitoring Center must adopt the required procedures to maintain regular compliance with the measure and must manage incidents under the terms of Protocol I of CNJ Resolution No. 412/2021.

The data collected in the electronic monitoring services are characterized as sensitive personal data, and their access and sharing with third parties, including public security agencies, is prohibited, except with explicit judicial authorization.

7. Electronic Monitoring Center Information

Address: _____

Office Hours: _____

Phone Contact: _____

E-mail: _____

To be enforced as provided in law.

LOCAL, DATE. MAGISTRATE'S NAME