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Directive #09-24

Questions may be directed to the Criminal Practice Division at 609-815-2900, x55300.

TO: Assignment Judges
Trial Court Administrators

FROM: Glenn A. Grant, J.A.D. 

RE: Criminal Justice Reform – Pretrial Services Defendant
Compliance Reviews; Implementation of Amendments to Rule 3:26-2(c)

DATE: September 13, 2024

The Supreme Court by [September 12, 2024](#) Order amended Rule 3:26-2(c) (“Modification of Release Conditions”) to provide that Pretrial Services shall review eligible defendants who have been compliant with the conditions of pretrial monitoring for at least six months. If a defendant meets the criteria set out in the Rule, Pretrial Services shall recommend a reduction in the defendant’s level of pretrial monitoring. This compliance review is not meant to modify the conditions of a defendant’s release. The rule amendments are effective November 1, 2024.

The Court’s action implements a recommendation¹ of the Joint Committee on Criminal Justice (JCCJ), which was reconvened by the Chief Justice in 2023 to review data and consider enhancing various procedures and policies related to Criminal Justice Reform in New Jersey. This Directive sets out the process for Pretrial Services compliance reviews and also is effective November 1, 2024.

Compliance Reviews for Eligible Defendants

Pretrial Services staff shall conduct compliance reviews for eligible defendants on pretrial monitoring who have remained compliant with pretrial

¹ See, Recommendation 11 - [Report of the Reconvened Joint Committee on Criminal Justice \(njcourts.gov\)](#).

conditions for a six-month period and who are not excluded as set forth below. “Compliant” shall mean that no Violation of Monitoring (VOM) has been filed against the defendant in the preceding six-month month period.

The following individuals are not eligible for a compliance review:

- Defendants who are charged with an offense involving domestic violence (DV);
- Defendants who scored a six (6) on the New Criminal Activity risk scale on their most recent Public Safety Assessment (PSA);
- Defendants who were released from jail because their case could not be processed within the statutory speedy trial deadlines;
- Defendants who have been issued a violation of Monitoring (VOM) during the preceding six (6) months;
- Defendants who have been charged with a new offense, including in a jurisdiction outside of New Jersey, in the preceding six (6) months; and
- Defendants who have failed to appear in court in the preceding six (6) months.

All other individuals who remain compliant for six (6) months as defined above are entitled to a Defendant Compliance Review.

Defendant Compliance Review Process

Once Pretrial Services determines that a defendant is eligible for a possible reduction in level of monitoring, Pretrial Services will complete the attached “Notification of Defendant Compliance Review” form (CN 13243), which will be distributed via eCourts to notify the judge, prosecutor, and defense counsel of the proposed reduction in monitoring level.

The parties shall then have ten (10) business days to file a written objection via eCourts. The written objection must set forth in detail the reasons the filing party believes that the defendant’s level of monitoring should not be reduced.

When considering a recommended reduction in monitoring level, the court shall ensure the appropriate balance between public safety, the presumption of innocence, and the Criminal Justice Reform Act’s (CJRA) requirement that conditions of release be the least restrictive necessary to ensure that defendants

appear in court when required and do not commit further offenses while on pretrial release.

If the prosecutor and/or defense counsel objects to a reduction in the defendant's level of monitoring, or if the court has concerns with granting a reduction in monitoring level, the court will conduct a hearing on the proposed reduction at the defendant's next court date, with an opportunity for all parties to be heard. Absent a written objection or concerns on the part of the court, the recommendation may be considered without a hearing.

Attached to this Directive is a customizable form order for the court to issue granting or denying the recommended change in monitoring level (CN 13244). If the decision is to reduce the defendant's monitoring level, the court must also enter an Amended Pretrial Release Order. As noted above, this compliance review is not meant to modify the conditions of a defendant's release, which conditions would remain in place and be reflected as still in place in the Amended Pretrial Release Order, for example, an existing no-contact condition of release. All orders will be distributed to the parties through eCourts.

If at any point during this process the defendant fails to remain "eligible" as set forth above, the Defendant Compliance Review shall be concluded, and the court will enter an appropriate order (using the attached customizable template).

Continued/Renewed Compliance

A defendant will be eligible for another compliance review if the defendant remains compliant for an additional six (6) months following the court's entry of an order either granting or denying a recommended monitoring level reduction.

Conclusion

As authorized by the Supreme Court, the Defendant Compliance Review process established in Rule 3:26-2(c) reaffirms the Judiciary's commitment to Criminal Justice Reform, including the value of incentivizing defendants' compliance with pretrial release conditions. This transparent process seeks to ensure that conditions of release are modified only when the appropriate conditions have been met. Consistent with the principles of Criminal Justice Reform, this process seeks to balance community safety with the presumption of a defendant's innocence.

Any questions about the amendments to Rule 3:26-2(c) or this Directive may be directed to the Criminal Practice Division by phone at (609) 815-2900, ext. 55300, or by email at AOC-CrimPrac.mbx@njcourts.gov.

Attachments:

- (1) Notification of Defendant Compliance Review (CN 13243)
- (2) Order [Granting/Denying] Proposed Reduction in Defendant's Level of Pretrial Monitoring (CN 13244)

cc: Chief Justice Stuart Rabner
Matthew J. Platkin, Attorney General
Jennifer Sellitti, Public Defender
County Prosecutors
Presiding Judges (Criminal, Family, Municipal)
Jonathan Garelick, Chief of Staff (OAG)
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
Division Managers and Assistant Division Managers (Criminal, Family,
Municipal)

State of New Jersey

v.

Defendant.

Superior Court of New Jersey
Law Division – Criminal Part
_____ County

Case Number(s): _____

SBI Number: _____

Notification of Defendant Compliance Review

The above referenced defendant is currently on Pretrial Monitoring Level _____ as set forth in the attached order. The defendant has been compliant with the conditions of release contained within their Pretrial Release order for at least 180 days.

Pretrial Services has reviewed the defendant for eligibility pursuant to Rule 3:26-2(c) and Directive #09-24 and determined that:

- There are no charges pending that involve domestic violence,
- The most recent PSA results were less than 6 for new criminal activity,
- The defendant is not on release due to statutory speedy trial deadlines,
- There have been no Violations of Monitoring during the preceding six (6) months,
- There have been no new charges in any jurisdiction in the preceding six (6) months, and
- The defendant has consistently appeared in court in the preceding six (6) months.

Since release, the defendant has been indicted Yes No

Since release, the defendant's charges have been downgraded Yes No

Since release, the defendant's charges have been modified Yes No

Since release, defendant has had a Defendant Compliance review granted Yes No

Based on the above review, Pretrial Services recommends a reduction in the defendant's Pretrial Monitoring Level to _____. Pursuant to Rule 3:26-2(c), if an objection is not filed through eCourts within ten (10) business days of this notice, the court will conduct a defendant compliance review and enter an appropriate order. This compliance review will not affect the conditions of the defendant's release.

If an objection is received in writing through eCourts, the parties will be notified of a hearing date on the proposed reduction in the defendant's Pretrial Monitoring Level.

Date

Submitted By

State of New Jersey

v.

Defendant.

Superior Court of New Jersey
Law Division – Criminal Part
_____ County

Case Number(s): _____

**Order [Granting/Denying]
Proposed Reduction in
Defendant’s Level of
Pretrial Monitoring**

Findings:

On _____, Pretrial Services submitted a “Notification of Defendant Compliance Review” to the court with notification to the attorneys of record pursuant to R. 3:26-2(c)(3).

The parties were provided ten (10) business days to object to the suggested reduction in monitoring. In response,

- No objection was filed by the parties.
- The State filed an objection on _____.
- The Defense filed an objection on _____.
- A hearing was held by the court on _____.

Having reviewed the Notification of Defendant Compliance Review submitted by Pretrial Services; and, having considered any objection or input submitted by the parties; and, having heard the arguments of the parties during the hearing held on _____; and, for the reasons set forth on the record, the proposed reduction in defendant’s Pretrial Monitoring Level from PML ___ to PML ___ is hereby:

- GRANTED**
- DENIED** for the following reasons:
(Enter detailed reasons for denial.)

This Order does not change the conditions of the defendant’s pretrial release.

_____ Date

_____ Judge’s Signature