The Electronic Monitoring of Offenders: ethics, policy and technology

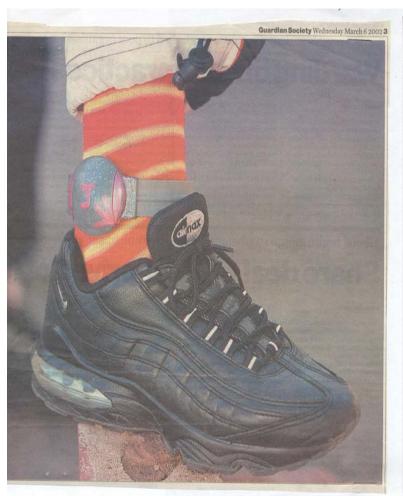
CEP May 2009

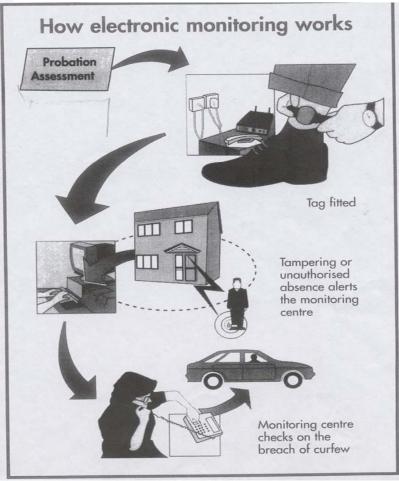
Professor Mike Nellis
Glasgow School of Social Work, University of Strathclyde

Aims

- To show we have come a long way
- To remember the origins of EM
- To suggest ways of conceptualising/ thinking about EM as a penal measure NOW
- To link EM and Probation
- To consider the Future(s) of EM

The Electronic Tag





EM is no longer one "technological practice" - five/six types (to date)

- Curfew / restriction to a place
- Voice Verification
- Remote Alcohol Monitoring
- GPS Satellite Tracking
- Inmate Tracking System
- Victim protection?

The Origins of EM

- "Tracking movement" was imagined and preferred to "curfew/ house arrest"
- "Telecare" monitoring life signs of the old and ill was conceived simultaneously
- For offenders, EM was considered a <u>rehabilitative</u> device - a control, but not a punishment
- "The use of such a system of [electronic surveillance] actually extends the rights of parolees by allowing them to live with their families and keep their jobs when they would otherwise have been incarcerated. Society is also more surely protected against additional offences than if the parolee is released without extensive surveillance."
 when was this said?

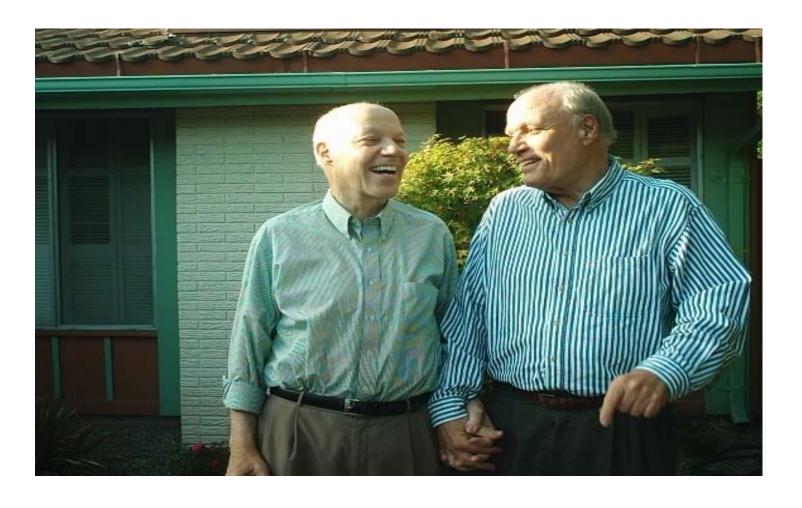
1964

"When specific offending behaviours can be accurately predicted and/or controlled within the offender's own environment, incarceration will no longer be necessary as a means of controlling behavior and protecting society"

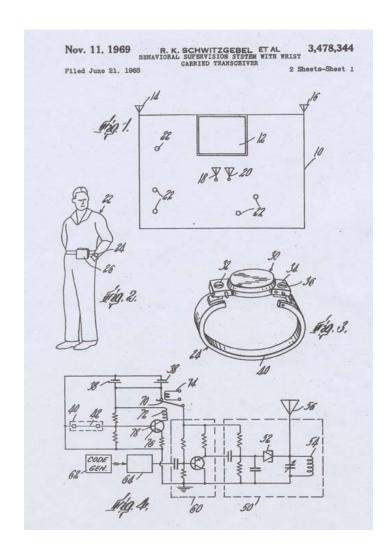
 Ralph Schwitzgebel (1964) A Programme of Research in Behavioral Electronics. Behavioral Science 9(3)

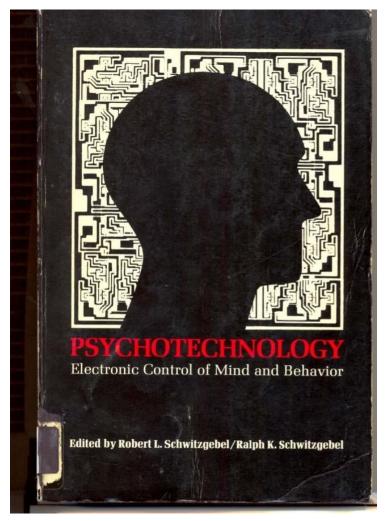
Robert and Ralph Gable 2007

(previously Schwitzgebel's, Harvard 1960s)

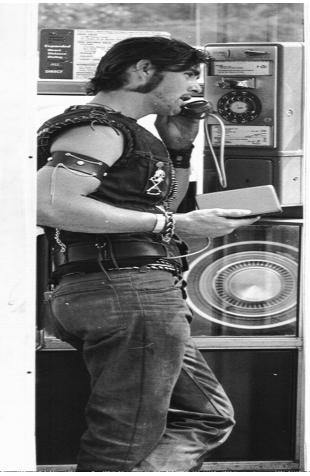


Patent 1969; "Psychotechnology" 1973





The Schwitzgebel Machine 1969



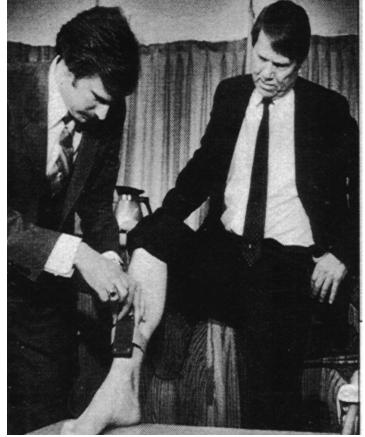
Electronic monitoring system, Cambridge, MA. July 1969



Judge Jack Love, Albuquerque, New Mexico. 1977 - 1982/3



Electronic anklet, being demonstrated, keeps drunk trivers out of jail and off the road.



- EM a tool to reduce pressure on prisons during 1990s

Break this prison routine

S MPs on the Commons Home Affairs select committee have recognised, it is madness to lock up more and more manufacture of the periods of time at enormous periods of time at enormous periods of time at enormous periods of the act in the community. The number of people in prison has been increasing by more than 10 per cent per year and each costs £24,000 a year to keep there. Yet it is a myth that locking people up dramatically cuts crime. A form office study published this summer found more study published this summer found more people up the people up the people up the people with the people with the public wants tough sentences. The MPs discovered that despite the popular view that the public wants tough sentences, the length of time people think someone people for longer periods of time at

view that the public wants tough sentences, the length of time people think someone deserves for a particular crime is actually significantly lower than that handed down. Their call for a greater emphasis on community sentences, if necessary combined with electronic tagging, is welcome. Prison is an expensive and ineffective answer and it is time politicians acknowledged as much.

THE NEWSPAPER FOR THE NEW MILLENNIUM

res to give away so 10,000 readers can have ture of Britain's most famous club. PAGES 6 & 7

Report warns prison no longer works

TOUGHER sentences to punish criminals without sending them to prison, including widespread use of electronic tagging, will be recommended by an influential group of MPs this week.

tial group of Mr's this week.

Prison costs us 11.8 billion a
vear but too often fails to persuade criminals to go straight, a
report by the Commons home affairs select committee will say But while statistics show

convicted again within two work and nobody really wants, 'a vears, Britain's prison popula committee source said Judges tion is growing faster than respond to the public debate

anywhere else in the European Union. The all-party group of MPs will blame magistrates and judges for passing sentences which do not even include a visit to a probation centre. It will accuse them of trying to "second guess" public opinion by jailing people for lesser crimes

and for longer terms. "We are pursuing a policy that three quarters of young men nobody really believes in, which released from jail in 1994 were is incredibly expensive, doesn't

even tougher even though they know in their hearts that what they are doing doesn't work." The prison population in England and Wales had risen to

Engand and Wales had risen to 65,400 by March, up more than 14,000 since 1995. The number of people jailed for drugs offences has more than doubled in the past decade, and burglars account for 17 per cent of the prison population. Each prisoner costs around £24,000 a year, but many could serve their sentences in the community, cost us less and with less chance re-offending. The average TURN TO PAGE 4, COLUMN 4



order is £2,230 and a community service order £1,570. The committee's report on after natives to prison sentences, to be published on Thursday, will call for a national register of the most effective the most effective community supervision

programmes.

Home Office Min-isters have a role to play in promoting communi-ty service, both as a genuinely demanding punishment and as a punishment and as benefit to society at large. The report suggests community service sentences could be renamed "work orders" to underline the fact.

punishment and as a public regulors aryusing objected to society at large continuity service sentences could be renamed "work orders" to underline the fact that they are punish. "The whole way community service in the changed and the community service proposed to the changed and the community service proposed along to some community service proposed and the community service proposed service of the community service proposed service of the public protection some proposed service of the public protection service to the public protection service of the protection service protect



STRAW: Likely to back many of the proposals public regards anything to do with probation as

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OPINION: PAGE

WEATHER 2 ● OPINION 10 ● LETTERS 25 ● HICKEY 29 ● LIFE 32-35 ● TV GUIDE 36

EM - an ideal form of community supervision?

EM permits many ordinary routines of daily life to continue

Tougher than probation(!?)

It prohibits, but does not inhibit

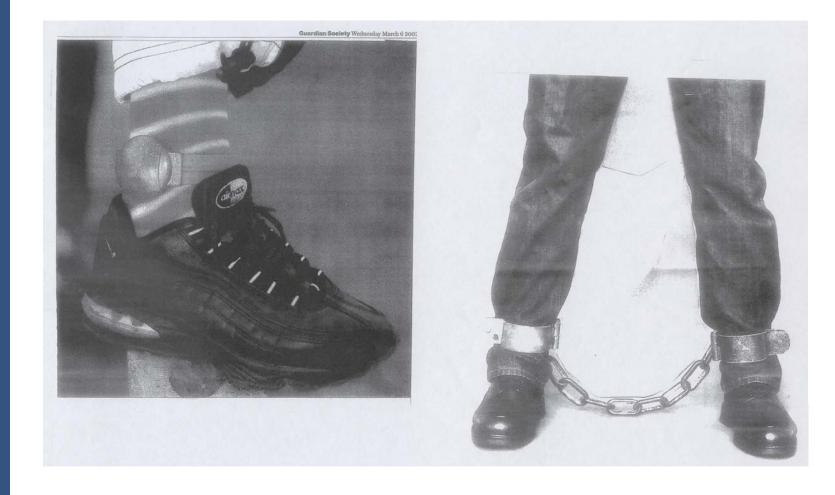




There is no business one cannot go about whilst wearing a tag

Thanks for the picture, Mr Gable

EM is not merely about confinement, nor is it incapacitative like prison!



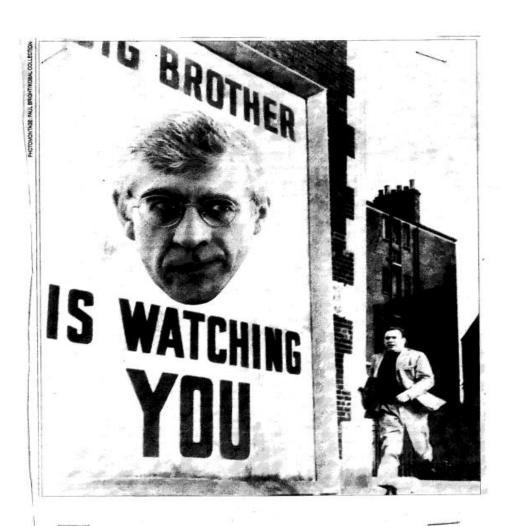
Can EM be considered a type of surveillance, and is this OK?



The spectre of George Orwell's "Nineteen Eighty Four"

But
Partial surveillance
can be much less
intrusive than
imprisonment

.... and extreme punitiveness in a society militates against use of EM



Conceptualising EM as Surveillance

- Surveillance "gathering data in order to affect behaviour" - oversight of suspicious persons
- Remote location monitoring
 NOT visual surveillance, not "seeing"
 faciliates "economies of [penal] presence"
- Focus on the body ... more than the mind
- Compliance = (simply) presence/absence at designated location and time
- Not in itself inherently rehabilitative internalisation of norms of law-abidingness/ long term personal change not required (or addressed)
- An "automated socio-technical system"

EM - Surveillant Dimensions

(it's not just a technology)

- Social support systems for monitoring
- Requires "marking" the body with a tag (except voice verification)
- Wearable tag creates potential for stigma
- Raises questions of (locational?) privacy
- Degree of spatial/temporal restrictiveness
- Collateral Impact on families and partners
- Actual subjective and behavioural responses – compliance, defiance or .. what? explore actual thoughts, feelings & actions

EM and Offender Compliance

TYPOLOGY OF COMPLIANCE

Incentive-based compliance - gains and goods

- Trust-based compliance via relationships/obligations
- Threat-based compliance worse penalties
- Surveillance-based compliance "clockwatching"
 NB- these are not mutually exclusive

Incapacitation-based compliance - an oxymoron

- compliance requires choice and commitment.

Compliance is not enough; constructive change is better,

Even those normatively committed to change still have to demonstrate compliance with the EM rules.

Probation should pursue all forms of compliance.

Other views of EM ... it is lenient?



EM is a trophy - not a deterrent?



EM - dangerous? inept?



THE SUMBAY TIMES 24.3.02



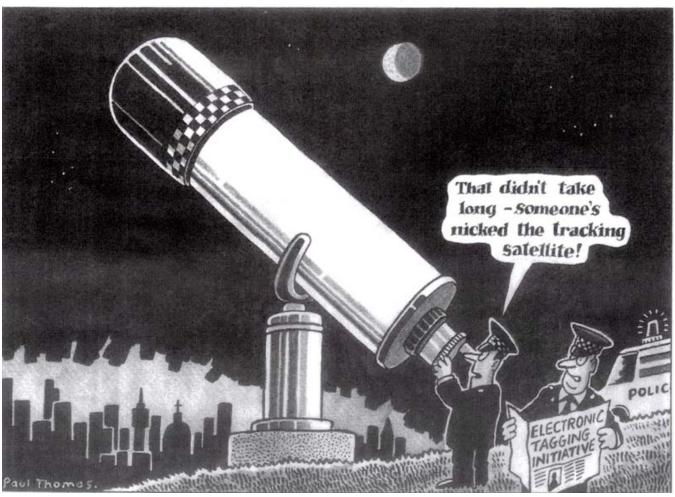
Tuesday, July 4, 2000 METRO 3

Legiess convict is caught in pub

A RELEASED prisoner managed to dodge a curfew - after security staff fixed an electronic tag to his false leg by mistake. Tony Higgins simply unscrewed the artificial limb and left it at home while he went to the pub. The 38-year-old was ordered to observe a 7pm to 7am curfew upon his release from Blakenhurst Prison in Redditch, Worcestershire, An electronic transmitter was installed at his home to alert police by telephone if it failed to detect a signal from the tag on his body. However, a prison worker preparing Higgins for release had strapped the tag to his false leg. The oversight only came to light when Higgins's home phone was out of order. Police officers called at his house - and were told he had gone to his local to celebrate his freedom. The Home Office said the tag had now been tied to Higgins's other leg.

EM - technology is unreliable or vulnerable?

THE DAILY EXPRESS 3 rd SEPTEMBER 2004



EM - poor at crime reduction?

Daily Express Monday November 21 2005

By Tom Whitehead Home Affairs Correspondent

RELEASING prisoners early with electronic tags does not help to cut reoffending, the Government was forced to admit yesterday.

Up to four freed prisoners a day commit another crime while under the home detention curfew programme.

Home Office figures revealed that 1,294 committed crimes last year. In 1999, when the scheme was introduced. 294 re-offended.

In total, 6,714 crimes have been committed, including 828 violent offences, 315 burglaries, 12 sex crimes, 85 robberies and 564 drug offences.

There have also been 1,669 cases of theft or handling stolen goods, 232 frauds and 1,670 motoring offences.

And critics warned that many more crimes go unsolved.

Shadow Home Secretary David Davis said: "Labour is freeing more and more prisoners knowing full well that more will reoffend.

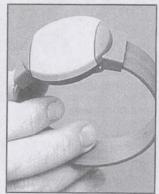
"It makes their long-term policy of letting criminals out on tags to free up prison capacity look all the more dangerous. It is nothing short of criminally irresponsible.

"The number of criminals let out of jail early is rising rapidly and, unsurprisingly, so is the number of crimes they then commit."

Liberal Democrat home

Tagging fails to halt crime





IT'S CRIMINAL: David Davis hit out at the overuse of tags, above

affairs spokesman Mark Oaten said: "The Government is increasingly using the tagging scheme as a pressure valve for the prison system instead of using it to cut offending."

Home detention curfew (HDC) sees prisoners released up to four and a half months early from their sentences and monitored at home, usually with tags.

Victims of Crime Trust, said: "How many times does the Government have to fail to protect the public by introducing such flimsy measures before they wake up and smell the coffee?

"The majority of these youngsters rate such tagging and home detention with contempt and see it as nothing more than an invitation to Norman Brennan, of the continue their offending."

Some 115,000 prisoners have been released early since the scheme started and around 3,200 offenders are on HDC at any one time - the equivalent of five or six medium-size prisons.

Home Secretary Charles Clarke came under fire after it emerged that he is considering extending the scheme and releasing inmates even earlier.

In one damning case, Peter Williams, 19, murdered Nottingham jeweller Marian Bates after being released early from prison.

He had ripped off his tag, ignored curfews and missed seven probation appointments.

The Home Office insisted the scheme was successful because those committing crimes account for only about five to six per cent of the total.

But a spokeswoman admitted: "The reoffending rate on HDC has increased over recent years.

"This is mainly due to the increase in the maximum curfew period from 60 days to 135 days."

EM - Global Expansion since 1990s



Policy Rationales for the Expansion of EM?

- Reduce prison numbers and costs
- Improve/toughen community supervision (bail, sentence and post- release)
- "Modernisation" of public policy/state esp
- Disillusion with "anachronistic" probation
- Growth of (post 9/11?) "surveillance culture"
- Research high compliance whilst on EM
- Policy transfer/Transnational showcasing
- The growing ICT infrastructure changes social possibilities for crime controllers

GPS/GSM Satellite Tracking

wide use in USA since 1997

English pilot 2004-06

used in France & Nethelands



Superior Technology Law Enforcement Solutions



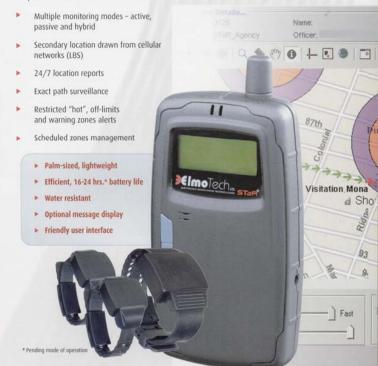
Satellite Tracking and Reporting System
Incorporating
Pioneering Secondary Location Capabilities

A New Level of Monitoring

Elmo-Tech's STaR system takes monitoring outdoors, enabling programs operators to monitor individuals beyond the limits of set locations. The system also maintains full home detention presence monitoring capabilities while monitored subject are at home.

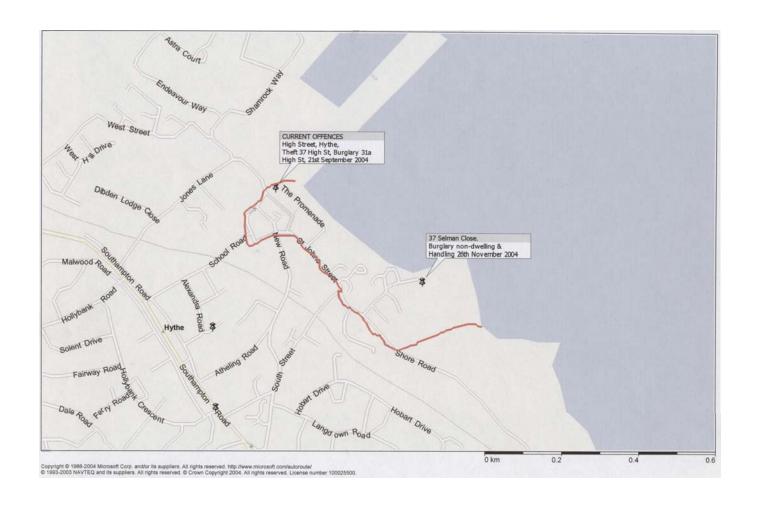
Elmo-Tech's STaR system is based on highly advanced global positioning satellite (GPS), RF and cellular communication technology components, introducing exclusive market leading technology features.

The STAR system was designed to meet the comprehensive security and financial requirements of operators in the Law Enforcement and Corrections industries, and enable them to keep an effective balance between the two.



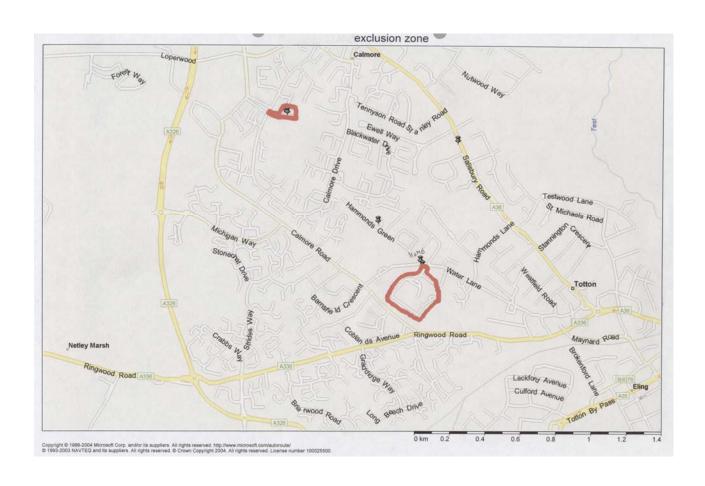
From: 04/09/2004 13:2

Retrospective, "Real-time" (Continuous) and Hybrid Tracking

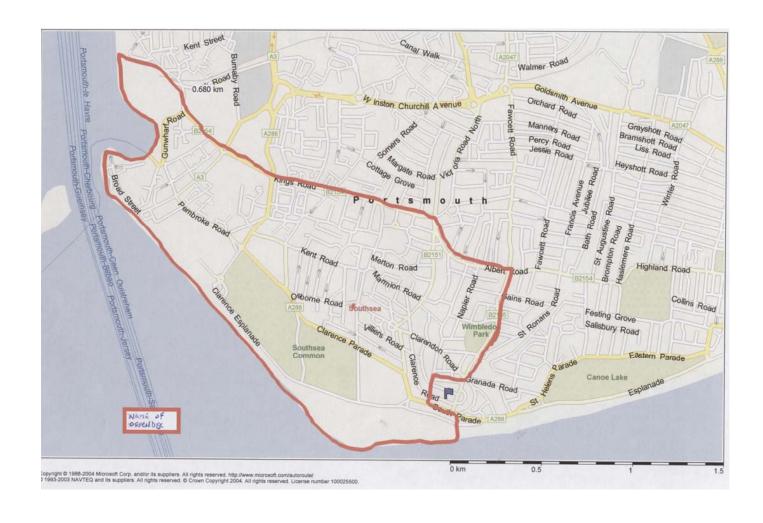


Creating Exclusion Zones

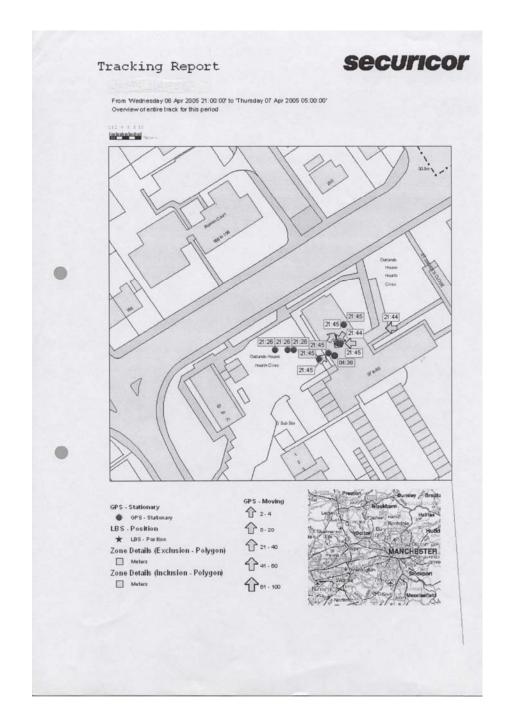
protecting victims ..and punishment



Exclusion Zones size and police response times



- Variable scale printouts
- Give offenders maps - show them where they have been
- CrimeTrax in
 Florida links
 offender locations
 to crime scenes



"Pitching" EM/tracking

> Monitoring in "Real time" = better than probation?

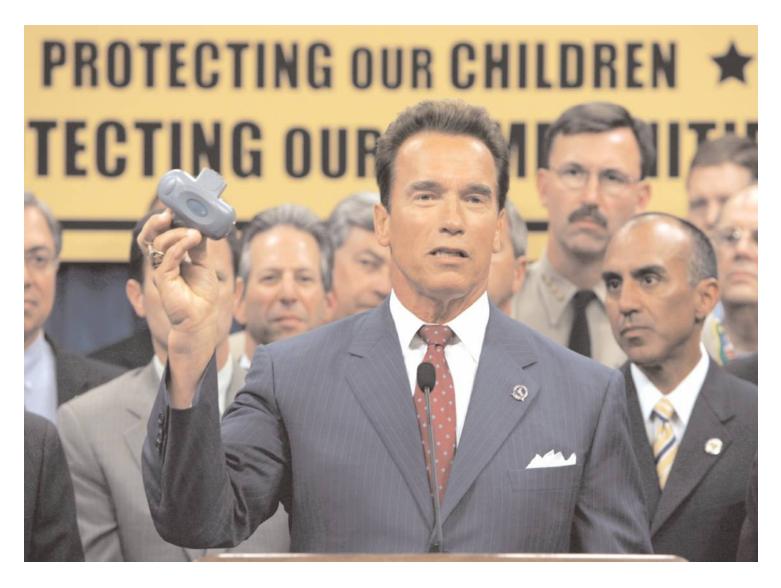
Control is only real if it is "here and now"/live

EM makes offenders "telepresent"



Lifelong Tracking in California?

(and other states)



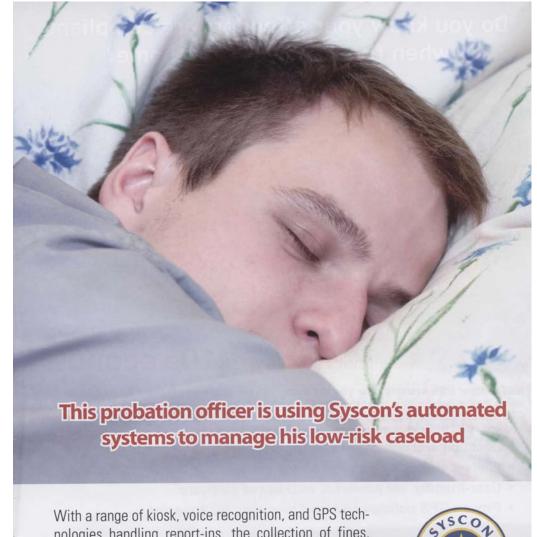
EM - Fears and Anxieties

POLITICAL

- A "thin end of the wedge" technology
- Fear of "overcontrol" Orwell's 1984
- Fear of "undercontrol" no crime reduction
 PRACTICAL
- Costs less than prison, but still expensive
- Diverts resources from rehabilitation to surveillance?
- The complex ethics of surveillance
- Private sector involvement

S

- Technology
 might
 displace
 social work
 rather than
 augment it ...
- ... if we let it.
- The political and professional challenge is to embed EM in rehabilitation.



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Is EM a harbinger of worse technological developments?

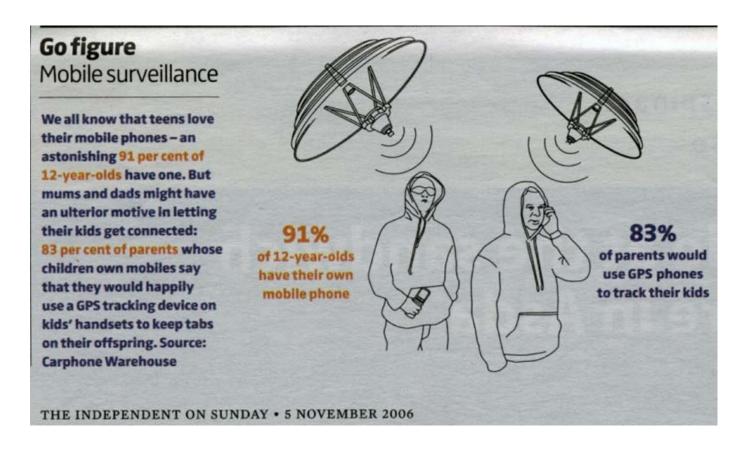
shift from (mere?)
location monitoring
to behavioural
control?

Technocorrections of some sort are inevitable in the 21st century: probation - get used to it



Normalising Locatability and Pinpointing in the Community

.... so how punitive is EM?



The Achievements of EM

- The technology is improving
- Its <u>present forms</u> are not overcontrolling
- The private sector is able and willing to engage in constructive dialogue
- EM's development can be shaped and constrained by policymakers
- EM adds valuable forms and degrees of control that probation cannot achieve alone
- It is not incompatible with rehabilitation
- It has reduced prison use/ time in prison for many offenders
- We have learned to be modest about EM but its full potential is not yet maximised

The Possible Futures of EM

- Pain inflicting tags may be developed but will discredit the EM cause - it will make people more alarmed by it?
- Implant Tags RFID chips? Verichip?
- For location monitoring or behaviour control .. or both?
- Normalisation of EM in criminal justice but at (too) high cost?
- Diversification of existing EM technologies and of "target groups":
 - Asylum seekers Terror suspects
 - Telecare for old, ill and disabled

The Probable Futures of EM

- ICT infrastructure will not go away politicians and crime controllers have new control options.
- Social work will have to continually prove itself.
- Technology will become smaller and cheaper.
- Modernising ideology makes EM attractive, probation anachronistic.
- Prison remains costly and often damaging but its use will probably NOT decline massively
- Public demands for protection will not diminish
- Police will show interest in managing EM.
- Research will make some difference, especially regarding costs and aggregate crime reduction effects.
- For/against attitudes to private sector will play a part.
- Europe may not copy USA, eg with satellite tracking

The Preferable Futures of EM

- All five EM types have their uses but use sparingly and subordinate them to humanistic values - no "technical fix"
- Politically this may be easier said than done but, record shows, not impossible!
- Embed EM in rehabilitative programmes
- Acknowledge that most offenders prefer (existing) curfews to prison
- Don't seek or even expect perfect /total control and beware its champions!
- Do keep seeking ways of reducing the use of custody
- Do not devalue the public sector

The End

Thank you