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PROBATION IN EUROPE

Bulletin of the Conférence Permanente Européenne de la Probation

Electronic Monitoring: Big Brother is now watching you in Europe

Dominik Lehner

Prison and Social Services Division (Division de la privation de liberté et les services sociaux) of the Department of Justice in the Swiss canton of Bâle-Ville, Switzerland

Two years ago, nobody was sure that a conference on monitoring would take place. High numbers gave the organisers a reason, however: Electronic Monitoring (EM) is still a topic of interest and, as it became clear during the conference, the possibilities for its use are more varied than ever. Applying the latest technology is crucial to this continuing to be true.

>> The presence of 125 participants from 23 countries at the CEP conference from 19th to 21st May 2005, organised again at Egmond aan Zee, when two years ago there were 45 participants from 7 countries, seems to confirm the need to continue to share information on EM internationally. As in the 1999, 2001 and 2003 conferences, the basic concept was to bring together those responsible for implementing EM, those producing the necessary equipment and the few university researchers working in the field.

Professor Hans-Jörg Albrecht, Director of the Max Planck Institute for Foreign and International Criminal Law (Institut für ausländisches und internationales Strafrecht) in Freibourg en Brisgau spoke of the current EM situation in a detailed introduction to his presentation while Peggy Conway, editor of the Journal of Offender Monitoring (Kingston, USA), described in hers the evolution of the subject in the USA. By doing this they cleared the way to allow next the various EM specialists present to ask their colleagues from other countries questions on points of interest. Peggy Conway pointed out that in the US it is often the case that new technology is put into action but analysis of its results can only be undertaken much later on. Some time before the conference, a written survey was carried out, where the states taking part provided information on their numbers of EM participants in 2004 and the number of cases ongoing at 31st December 2004 : >>

	PARTICIPANTS IN 2004	NO. OF CASES ON 31.12.2004
Belgium	1,377	280
England & Wales	52,923	10,601
France	2,911	719
Germany	---	---
Netherlands	3,742	---
Portugal	332	253
Scotland	---	---
Sweden	2,705	---
Switzerland	631	---
Total	**64,621**	**11,853**

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GPS Tracking in England

The scale of the English GPS (Global Positioning System) programme exceeds that of the programmes in other countries by a long way, and it is their intention to continue to invest in EM. It does not, therefore, come as a surprise that England is the first European state to have begun, since 1st September 2004, an EM scheme based on satellite surveillance.

Breath tests for drunk drivers

In the USA, as in Europe, alcohol at the wheel has become a problem. On this side of the Atlantic, however, it is little known that a framework of programmes entitled DUI (Driving Under Influence) is already in place in 45 US states, using what are known as ignition interlock devices. These are devices that make it impossible to start up a vehicle until the driver has taken a breath test to measure blood alcohol levels[1]. By comparison, as many as 39% of breaches in the pilot EM project were incidences of drunk driving.

Exclusion zones

GPS Tracking allows exclusion zones to be created, or areas from which offenders are banned. This means they can be denied entry to restaurants, bars or pawnbrokers' shops where stolen goods can be stored, and GPS surveillance ensures that this ban is respected. It is said that the aim of this is to make it difficult, or even impossible, to commit certain crimes, by curbing the behaviour that leads to them.

EM Programmes for teenagers

A home curfew EM scheme during teenagers' free time has already been in progress for several years in England and Wales. This means that they are prevented from committing crimes for a while. These young people benefit from an intensive period of supervision – with, as much as possible, the help of their family – and have to learn to adhere to timetables and rules. This programme has the aim of keeping young people in their home environment, rather than surrounding them in the subculture of a prison establishment. A more lenient form of monitoring is the additional use of a voice recognition system instead of an electronic tag; the act of identifying the offender's voice by telephone confirms that s/he is there. GPS Tracking is also being used, in the form of a pilot project. This more severe method of surveillance offers - particularly in cases of hooliganism and gang crime - the possibility of keeping young offenders at a distance from places where crimes are committed, such as stadia or certain areas where gangs operate.

The effects

The urgent need to know how effective the measures are, rather than compassion for the offender, has led research towards an emphasis on the feelings and reactions of offenders themselves. It goes without saying that the offender should be understood in relation to his personality, separately from the act committed. Directing research onto the offender's perspective serves firstly to widen what is known about the effect of different elements of a punishment. In order to achieve this, it is important to earn the interest of the person involved. Considering the average level of education of offenders, which is quite low, their relatively limited ability to express themselves in general and the great likelihood that they will not give honest answers because of various underlying motives, it can be a difficult undertaking. What is obvious is that, on its own, an electronic tag has no curative effect and does not lead to improvement. This is why it is important to find out what combinations of elements of surveillance and social work are most able to work for the offender.

EM in the asylum procedure

Similarly to the EM programme for adolescents, England and Wales are applying this format to asylum seekers with the use of voice recognition for the most lenient surveillance and GPS for the strictest. It is natural that here too direct personal contact plays an important part. Firstly, contact between the asylum seeker and the authorities has to be ensured throughout the asylum process. Moreover, it is necessary to monitor that certain territorial restrictions are respected, for example a ban on crossing the border. Knowing which methods are suitable depends on an initial risk assessment being carried out; this has to be re-evaluated and possibly adjusted after each phase of the process.

A greater emphasis on quality standards

Technological progress tends to take on a speed of its own. For a long time EM has carved out a

1 *Following the most recent developments, the level of alcohol in the blood can now be determined through the skin or in sweat. The mass-assembly of this system in cars is already technologically possible. Despite this, American programmes are often criticised for creating admittedly more vehicles which cannot be started by drunk drivers – a positive step – but for not really lowering the number of people driving whilst drunk.*

niche for itself in the huge market of the surveillance industry, and competition is fierce in the sector. It is not, however, just a question of manufacturing anything and everything. In cases where EM is replacing a prison sentence it is tempting to cast aside quickly various ethical considerations for the reason that an electronic tag represents rather less of an attack on an offender's freedom. Nevertheless, the intrusion into family life, combined with 24-hour geographical monitoring, raises new questions. These issues do not yet occupy enough space in national constitutions, the European Convention on Human Rights or in Council of Europe recommendations. GPS Tracking allows a colossal amount of data to be gathered. For how long should this be kept? Who has access to the data and how are the rights of a third party, for example someone visiting the person under surveillance, guaranteed? It has been debated for the first time whether or not GPS Tracking for life is feasible[2]. Ethical principles need to be developed first so that adequate legal controls can be adopted.

Social monitoring (Net widening)

The advent of EM is accompanied by the resurfacing of a relic from sixties criminology. There is a seemingly widespread fear that introducing new forms of punishment with a low threshold will not replace existing punishments but will cause a greater number of people – who were living peacefully until now - to be included in the sphere of the sentence. This fear is only partly justified, and there are hardly any comprehensive studies on the subject. Just defining this phenomenon is already creating great difficulties and nobody can deny that widening the social net can prove to be positive when the offender and/or society feel a benefit.

Social work: assistance and monitoring

Although many countries make a very clear distinction between probation and social work, EM has contributed towards the realisation that different approaches, categorised for the sake of simplicity under the term 'monitoring and assistance', can be combined easily. Contrary to the practice in the USA, Europe has no EM programmes that are not accompanied by some form of social work in the broadest sense of the term. On its own, an electronic tag is no more than an instrument. While prisons involve a very high level of control, which does not leave sufficient room for social work, EM allows the resocialisation of the offender exactly where it should happen: in society. Here begins the research into the ideal combination of assistance and monitoring on the road towards an offender attaining freedom with full responsibility.

Next EM workshop

Preparations are already underway so that the fifth conference on EM can take place in 2007, as usual in May. This year's meeting has shown that international exchanges between EM specialists are highly useful.

(Report on the fourth EM Conference in the Netherlands, previously published in August 2005 in 'Info Bulletin', with the kind permission of the Federal Office of Justice, Execution of Sentences and Measures Division, 3003 Berne) <<

2 *Experiments conducted with sex offenders in Florida show that the strong probability of being caught makes them reluctant to commit new crimes while they are under surveillance.*

Keynote address Whitfield, delivered by John Scott

MAY 2007

ELECTRONIC MONITORING : ETHICS, POLITICS AND PRACTICE

Most developments in criminal justice follow a fairly predictable long-term pattern. They develop over time, become integrated in mainstream approaches -- as happened with prison and most community penalties -- and while there have been genuine innovations like community service, most refine or adapt rather than do something really new. It becomes a process of incremental change based on research, or experience, or changing practice, rather than a complete step change or a new direction.

Electronic monitoring changed all that and has produced both problems and opportunities of a very different kind. I am not going to go back over a history that many of you know already -- and, indeed, have yourselves helped to shape – but I do want to try and assess where we are now and what we ought to do about it, in relation to the three headings I have been given : ethics, politics and practice.

This is not an end of term report -- it can't be, when schemes in Europe are at such different stages and have adopted such different starting points. But there are common threads, one of which I think is very apparent : the growth of electronic monitoring has been very largely politically driven -- much more than most criminal justice developments. It means it is also politically more vulnerable, too. If we want to develop best practrice we have to take that starting point into account.

I accept that it is a very general point, but one which I hope you can relate to your own national circumstances. Learning from your illustrations of how it has worked is one of the things this conference is best at doing. I hope to provide some sort of a framework which you can make sense of and develop over the next two days.

My experience of previous events here has been that learning points have often been unexpected -- they have little to do with the size of schemes, how long they have been established or even what their stated aims are. They have been insights gained from the detail of how you operate schemes -- valuable learning points which have helped to build up the bigger European picture. When I am advising on new schemes I make no apology for stealing good ideas, wherever I can find them. So perhaps I should start by saying thank you for the ideas and practice in Sweden, France, Switzerland and Holland -- among others -- which I have adapted for use elsewhere.

There are plenty of European jokes which depend on national stereotypes and, even though it may be very bad taste, I shall tell one now. It's about the difference between heaven and hell, both of which are apparently entirely European. In heaven, the police are British, the mechanics German, the cooks French, the lovers Italian and the whole place is impeccably run by the Swiss.

Hell, unfortunately, has exactly the same nationalities but in rather different roles. In hell the

police are German, the mechanics French, the cooks British, the lovers Swiss and the whole place is run by Italians.....

I would like to apologise to all those nations not represented, as well as all those who are! But there are one or two things to take from the joke, as well as the unreliability of national stereotypes. One is simply that difference and diversity make things more interesting; a second is that we -- whether EM schemes or nations – tend to be better at some things than others. Finding that out and using the information back in our own schemes was the very simple aim that started these events. It still is -- and I think the opportunities, as well as the need, are just as great now.

Let me explain. My first point was that politics was the main driver for the rapid growth of EM. That's not a surprise. Almost everywhere, politics has become the driver for change in criminal justice systems as a whole. The more politicised policy has become, the less independent research is used, the more rapid and unpredictable the rate of change becomes
.
New initiatives can -- and in England and Wales we have discovered, do -- disappear as quickly as they have been invented. Elsewhere in the world, the use of "sunset clauses" in criminal justice is growing. This means that legislation automatically ceases after, usually, five years, unless the new measure introduced has proved itself -- usually with independent research -- on both effectiveness and cost effectiveness tests.

We could do with it, incidentally, in England and Wales where we have had almost continuous criminal justice legislation for a decade; new acts of Parliament before the old ones have been properly introduced and, astonishingly, a consultation exercise on a whole new sentencing framework which would replace one introduced only two years ago.

The point to emphasise is that, in a world where crime is at the top of the political agenda, nothing is here to stay unless it can prove itself to both politicians and the public. I am not saying that EM is currently vulnerable -- it isn't -- but I am saying that it has to develop and change to keep justifying its existence and that is why the best practice and research agendas remain so important to all of us. Politics won't sustain EM in the long-term. Good practice will.

Rather than just preaching this doctrine, Ruud Boelens and I have been discussing whether it would be worth doing something practical to keep the momentum going between these conferences and help the many people involved in EM who are not able to be here. What we have in mind is an independent website on which information, research, best practice, minimum standards and, indeed, any EM related issues could be shared. It would give links to national schemes, to handbooks and practice manuals and to both published and unpublished research. Who would it be for ? We think for professionals, policymakers, students and researchers. We have made an initial approach to the EU and to the United Nations Criminal Justice Reform Unit and had an interested response. But the people who would make it work -- or not -- are yourselves, so we would be pleased to hear your views at any time over the next day or so and we will keep you in touch with the results in due course. Any help, ideas, or suggestions would be really welcome.

In the same way that politics wont go away, neither will ethical issues. The early development of EM was, quite rightly, dominated by ethical issues -- not just human rights issues but probation

attitudes to it, the impact on families and so on. It was a healthy debate and it has largely subsided as understanding has grown on all sides. The importance of consent, the need for good explanation to offenders and families alike have been accepted and generally built-in. What has received less attention is the way technology intervenes in relationships. The impact on families, especially where the tag is fitted to a juvenile or young adult offender, hasn't been much addressed as far as I know , except in Scotland and New Zealand but there are some worrying messages from both countries. In Scotland they came from parents who found themselves in the role, as they saw it, of "unpaid warders or prison guards" and the resentment that they felt in this role. In New Zealand, the pressure on partners and the burden of responsibility for the sponsoring adult which the scheme requires was equally worrying. These issues are not going to go away -- they are real issues -- and we badly need a better understanding of the dynamics which, after all, do affect directly success or failure on the tag.

The other relationship in which the tag intervenes is, of course, the relationship with the supervising officer, especially where a community penalty or a period on licence or supervision runs in conjunction with the tag. Like much else to do with EM there is no clear picture on this.

I discovered, quite early on, that for some volatile young offenders, EM is a very good partner for the social worker. It offers an impersonal, impartial authority; it is always consistent and you know exactly where you are with it -- which isn't always the case with a human supervisor. So it takes away a lot of the conflict centred on authority in supervision relationships, including boundaries, and enables one-to-one work to be more profitable and effective. But there are equally many probation officers who find working alongside the tag more difficult. They complain that it is inflexible, doesn't have an element of trust that can be used positively and provides a period of all or nothing control which makes the period after the tag has been removed more difficult and often more risky. We have a long way to go before we understand how to get the best from EM and how to deal with these issues.

New generation systems, too, will bring new ethical challenges. Satellite tracking has already done so and with five US states already having established legislation for "lifetime" tracking for serious sex offenders this is likely to be an ongoing issue. The National Association of Criminal Defence Lawyers is already mounting its own research to challenge such a draconian extension, pointing out that there are a quarter of a million sex offenders on licence or supervision in the USA at any one time and that the current reconviction rate of 7% over five years is unlikely to be improved by long-term satellite tracking. (Incidentally, you can find everything, from low tech to high-tech solutions in the USA, often in the same State. My current favourite from Fort Wayne in Texas, involves their own sex offender tracking programme. The Sheriff there is training school bus drivers to recognise recently released sex offenders -- by providing them with pictures of the offenders to keep in their cab.. If any of them are seen hanging around bus stops they get reported. It will be fascinating to see if the bus driver initiative can improve on the seven percent reconviction rate.)

More seriously, web sites are now springing up looking for evidence to challenge recalls on GPS and radio frequency tracking. GPS "drift" where the plots shown on the map are subject to a margin of error and -- sometimes -- are simply wildly inaccurate, is well-known. It hasn't gone away and remains an occasional problem for schemes – and an absolutely crucial problem for someone whose liberty is at stake. I was involved last year in a case were a sex offender in

England was recalled to prison because the GPS record said he had been at a swimming pool, thus breaking the conditions of his licence. It took six weeks of denial --while he stayed in prison-- that anything could be wrong before it was established beyond doubt that he was actually at a railway station some 400 yards away and that it was a mapping or recording error. We have to be alert to the messages this sends out, the concerns of individuals and our approach to the crucial balance between public safety and private freedoms if EM generally is going to retain public confidence.

And, finally, we can expect to be confronted with serious ethical issues soon about the extent to which we are prepared to sanction surveillance and control. Behaviour altering drugs for offenders, and implants working in conjunction with tagging schemes, are only two. The Electronic Privacy and Information Centre (EPIC) publishes regular updates on different levels of privacy protection and enforcement. The top two countries at protecting their citizens are, currently, Germany and Canada. The bottom three -- two of which already have very extensive EM programmes -- are the United Kingdom, Malaysia and China. And incidentally, we now have 12 million CCTV cameras operating in Great Britain -- one for every five of our citizens. We do still need to remember the conclusion of the book "Nation of Meddlers"
"the more we ask government to meddle in the lives of others, the closer we get to creating an apparatus that will, in all likelihood, eventually meddle in our own."

I have several times linked good practice and research in this speech , and that has been deliberate. The crucial question facing all European criminal justice systems at present is one of desistance. The offenders who cost us the most, who do the most damage, who fill the prisons and destroy confidence in crime policy generally are the prolific and repeat offenders. The absolutely crucial questions are centred on --what helps them to stop? Can we find a way of stopping them sooner? What makes a difference in starting the process of desistance? Like everything in criminal justice there is no single, simple answer -- but I believe that EM may provide one answer and if it can do so, and demonstrate it, and build on it, then good practice and freedom from political interference will be the result.

This is not an issue for contractors or supervising agencies alone -- both have a part to play. A mature EM system is not necessarily the one with the most sophisticated technology. I would define it’s characteristics as follows:

a scheme where the relationship to the other forms of available community supervision is clear; when the elements of compliance, punishment and rehabilitation have been integrated and are properly understood -- and where partnerships are used to improve the overall picture .

where technology is appropriate to risk -- and that might well include a range of options from voice verification to satellite tracking
.
where best practice is identified, monitored and published. Almost all publicity at present is negative and we do have to counter that. Some of you may have a good deal to offer on how best to achieve this.

where the scheme makes an impact on reoffending -- perhaps -- but certainly on desistance. There is a difference because desistance can be a gradual but vital process while reoffending,

which concentrates on a single event, is the only thing which is currently considered. I think we need more sophisticated studies than we have now and I hope that our resident academics can take this great big hint !

So to sum up on all three topics --

practice is still a matter of sharing ideas, what works, who has tried what and with what results. There is a wealth of expertise in his room to draw on and I hope that other possibilities for developing good practice, like a website, will also be discussed.

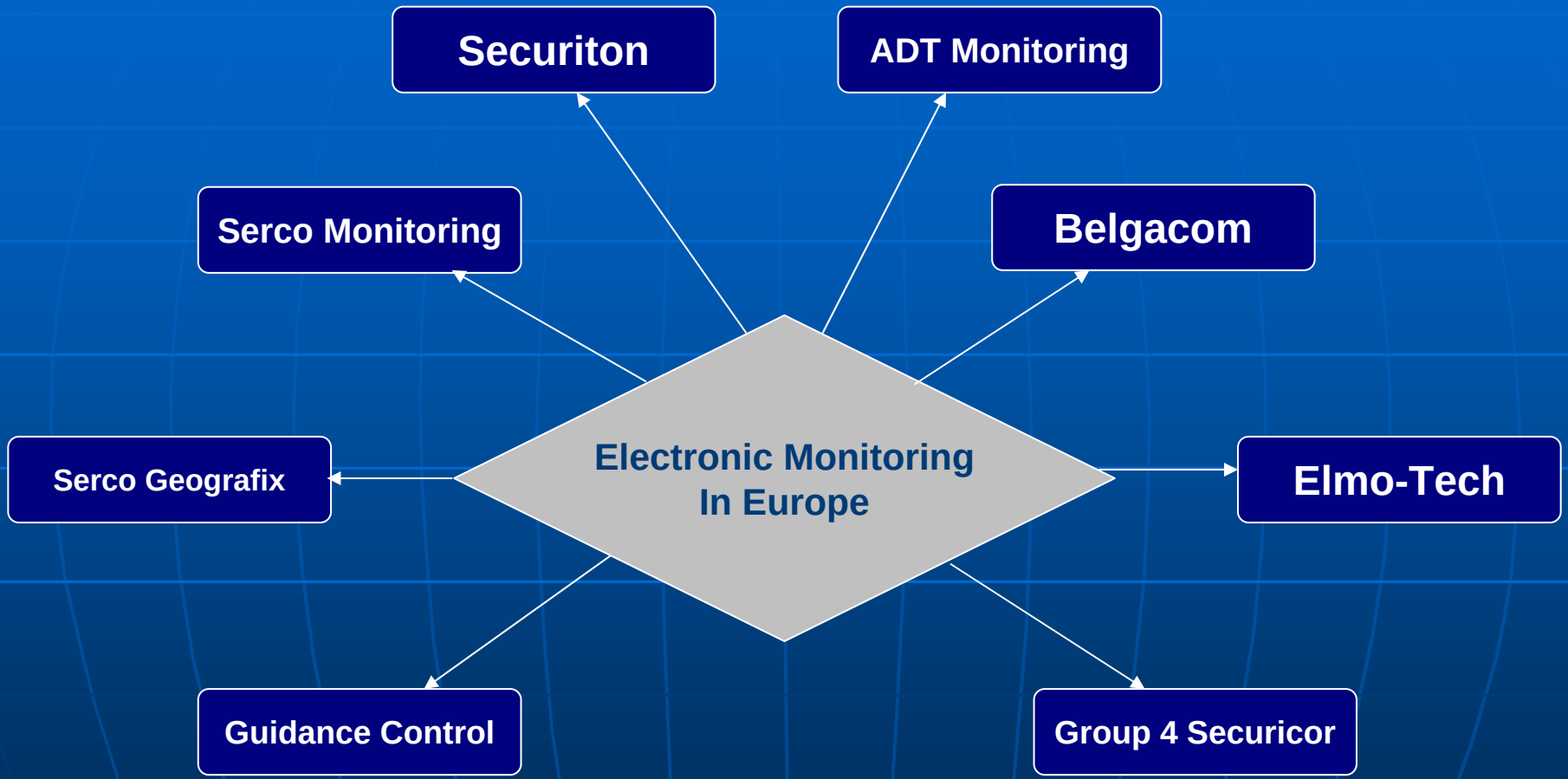
ethics -- have been sensibly and responsibly handled so far -- but I think more difficult issues are coming up and we cannot ignore them. Incidentally , I would like to pay tribute to Dominik Lehner for the work he has done over the years to keep ethical concerns on our agenda here.

and lastly politics-- the most difficult of the three. One commentator has suggested that the UK government lacks the capacity for strategic thinking on EM. And last year I was reading a piece in the London Times by the Chairman of the International Biometrics Foundation which concluded; "technology cannot compensate for unintelligent government policy." The message is clear. We cannot afford merely to be shaped by government policy. We have to try and shape it, as much as we can, and healthy growth in EM is going to be much easier to maintain if we get this and the practice and ethical issues right.

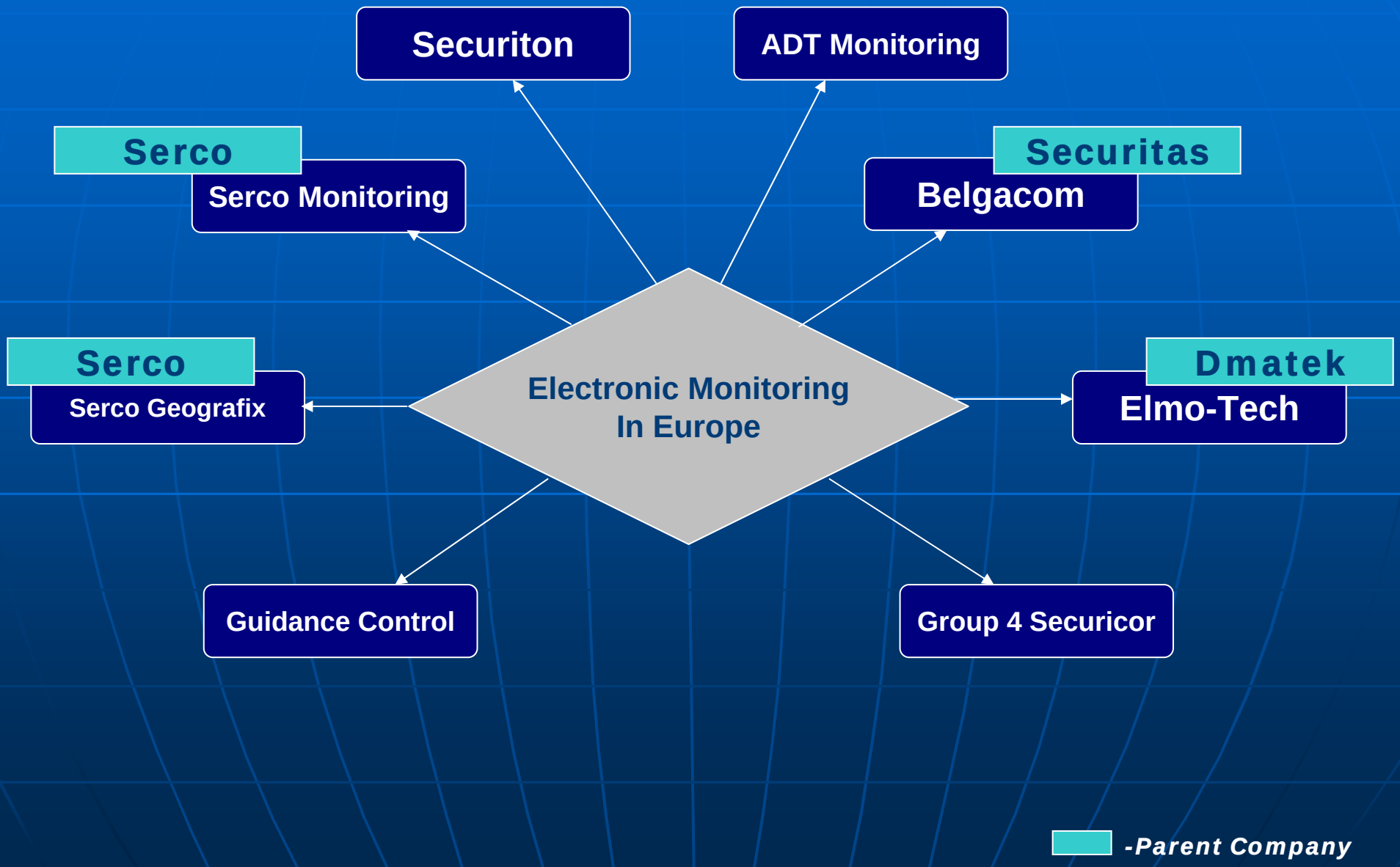
I rather like things which go in groups of threes, like the title I was given. We have songs in English about three kings, three ravens and Three Little Maids from School; in English you can be three sheets to the wind and very happy with it and there are of course the three graces --even if we counteract those with seven deadly sins. I wish we had three days for these discussions too, but let's make the best of all we've got. I'm certainly looking forward to the rest our agenda—and , I hope , have given you something to start us off..

Dick Whitfield

Electronic Monitoring Companies in Europe



Electronic Monitoring Parent Companies



Electronic Monitoring Companies in Europe Industry by Company

ADT Monitoring

- Security Monitoring

Belgacom

- Telecommunications
- Retail and wholesale fixed-line telephony services
- Mobile communication
- Broadband data
- Internet services

Elmo-Tech

- EM systems
- Marketing and support centers

Group 4 Securicor

- Security Guards
- Runs prisons
- Provides cash transport services
- Develops and installs security systems and electronic surveillance devices

Guidance Control

- Navigation and Process tracking Technologies
- Offender monitoring electronics

Serco Geografix

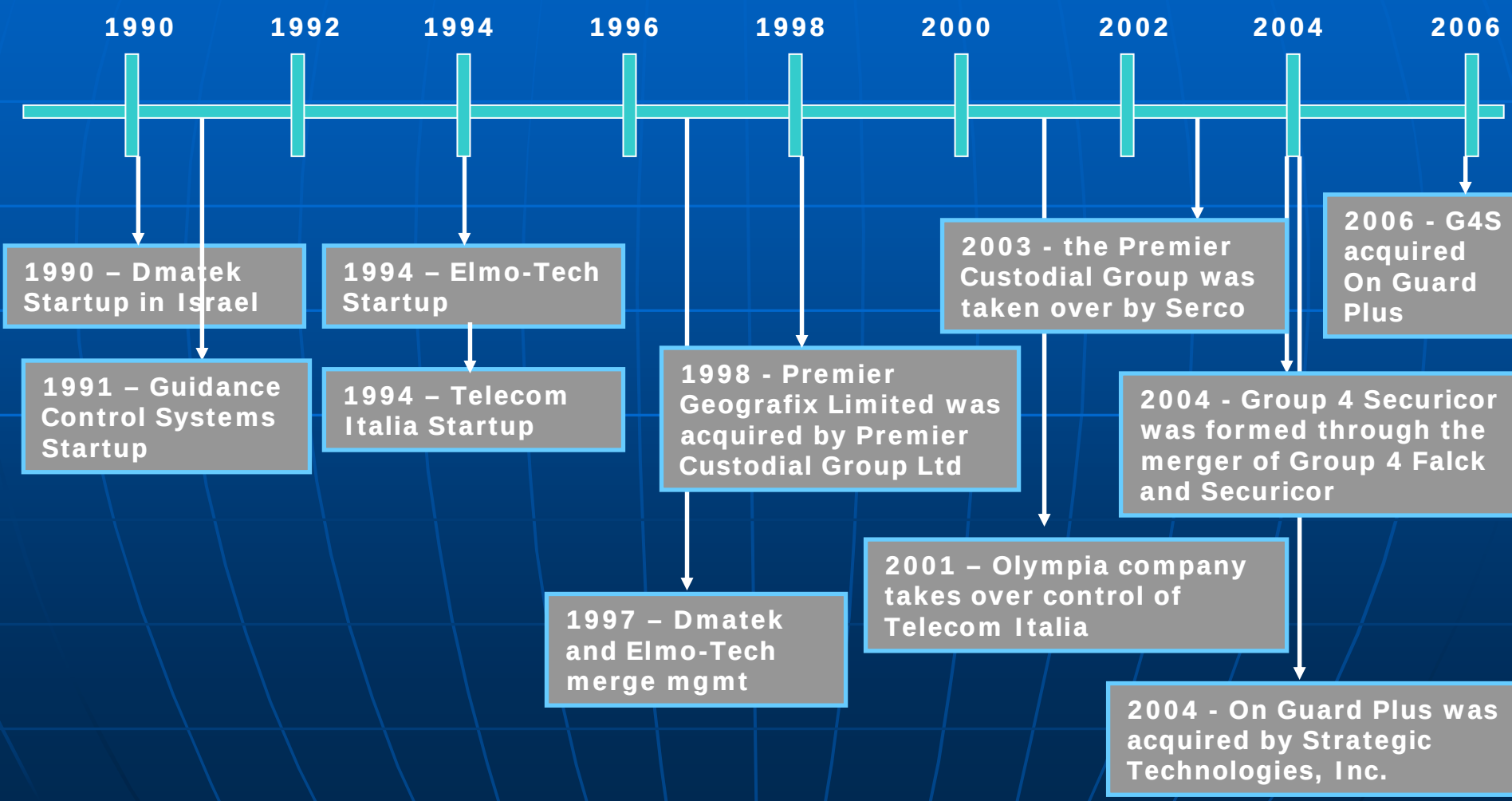
- Supply EM Equipment

Secro Monitoring

- EM Services

Securiton

Electronic Monitoring Companies in Europe
Industry History - Timeline



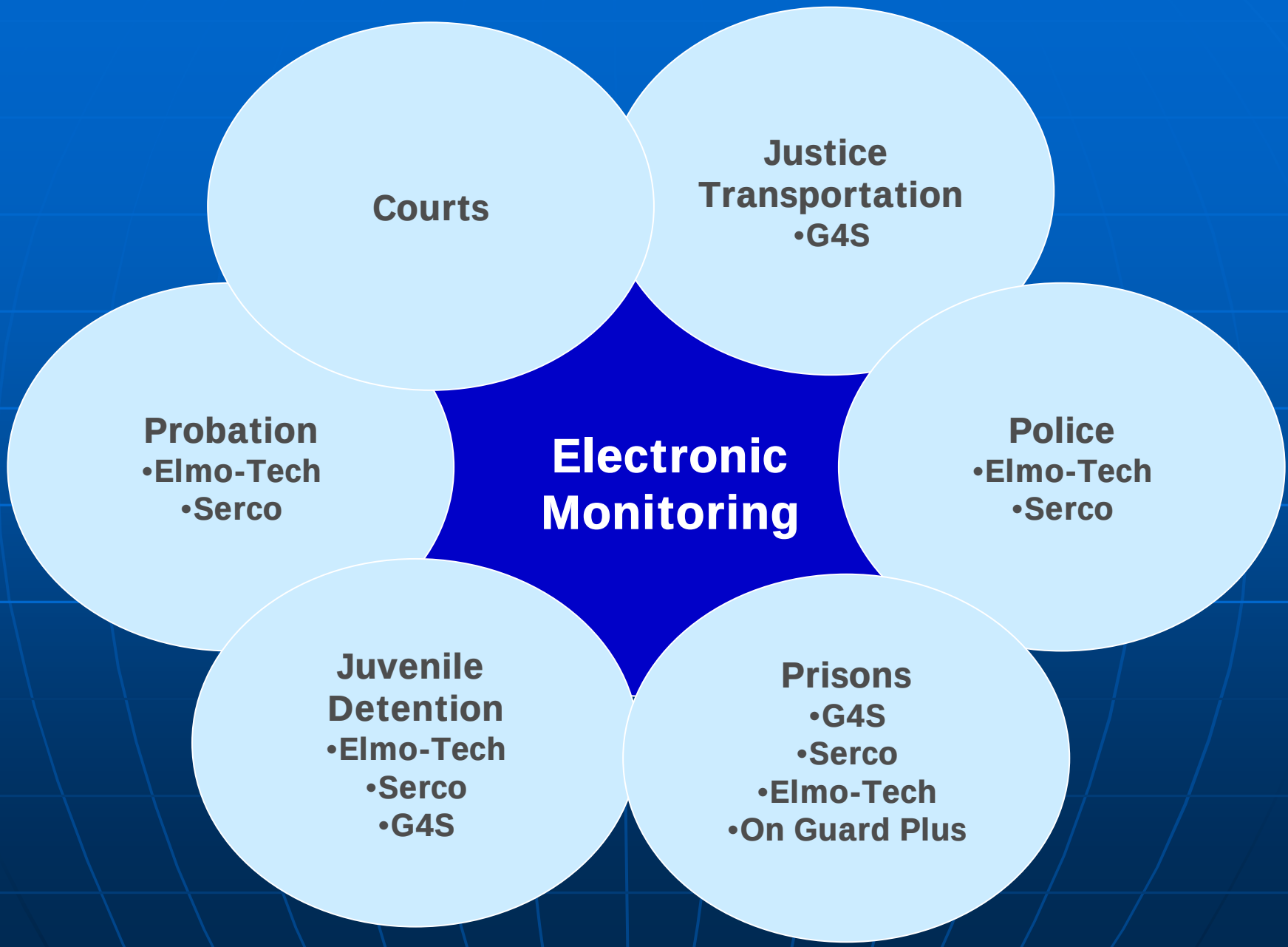
Type of Electronic Monitoring Program

Jurisdiction	Pre-trial	Court Order	Post Release	Other
Belgium			x	
England/Wales	x	x	x	x
France	x		x	
Germany	x	x		
The Netherlands		x	x	x
Portugal	x			
Sweden			x	x
Switzerland		x		

*Adapted from James Toon. 2006. 4th European Electronic Monitoring Conference: Analysis of Questionnaires. Table 3. The author is grateful to Mr Toon for sharing this information.

Operational Service Provision Models

Equipment Providers	DYI	Partial Service	Full Service
Elmo Tech RF	Sweden		
“ “	Denmark		
“ “	Germany		
“ “	Spain and Catalonia		
“ “	France		
“ “	Estonia	Switzerland	
Securiton using Elmo Tech RF		Belgium	
Belgacom using Elmo Tech RF		Italy	
Telecom Italia using Elmo Tech, Geografix and Italdata (no offenders yet)		Austria	
OWD using BluTag		Netherlands (?)	
ADT using Elmo Tech and G4S (STI)			England & Wales
G4S Using SEMSI, GCS, Elmo Tech, OGP VQ Voice & BluTag.			England & Wales
Serco Using Geografix RF,Voice and tracking, + Isecuretrac			Scotland
Serco Using Geografix RF			


Courts
Justice
Transportation
•G4S
Probation
•Elmo-Tech
•Serco
Electronic
Monitoring
Police
•Elmo-Tech
•Serco
Juvenile
Detention
•Elmo-Tech
•Serco
•G4S
Prisons
•G4S
•Serco
•Elmo-Tech
•On Guard Plus

England/Wales Fiscal Year EM Expenditures for 1999-2007

1999-2000	32
2000-2001	33
2001-2002	37.8
2002-2003	64
2003-2004	77.5
2004-2005	102.3
2005-2006	60
2006-2007	68

Total 474,500,000 pounds

Or

$877, 825,000

Justice Companies with European and U.S. Connections

Prisons (Inmate Tracking)
- Elmo-Tech/Nevada

Supplies (Buying from U.S.)
- Elmo-Tech buys from Sentinel Offender

Supplies (Sold to U.S.)
- Elmo-Tech supplies BI

Electronic Monitoring
- G4S

Detention / Prisons
- G4S

Transportation
- G4S

Air Traffic Control
- Serco

Commerce
- Serco

Justice Companies and Non-Justice Interests in Europe

Healthcare
- Dmatek/Elmo-Tech/ TeleHomeCare
- Serco
- G4S

Education
- Serco

Defense
- Serco

Food/Drinks
- Serco

Security Services
- G4S

Finance
- Serco

Hospitality/ Leisure
- Guidance LTD

Cash Security
- G4S

Non-Justice Buildings
- G4S

Navigation
- Guidance LTD

Aerospace
- G4S

Fire Protection
- ADT/Tyco

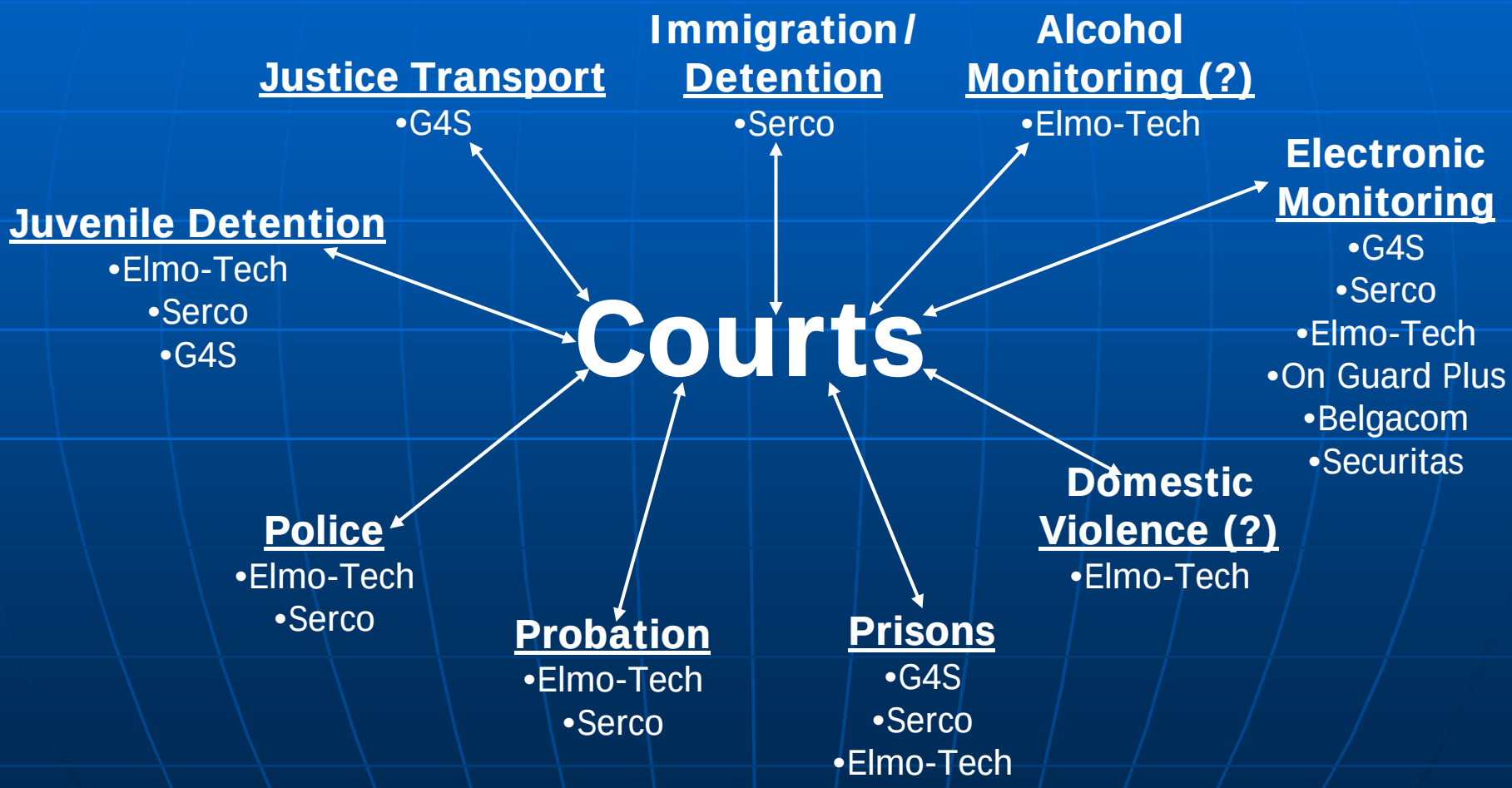
Home Security
- ADT

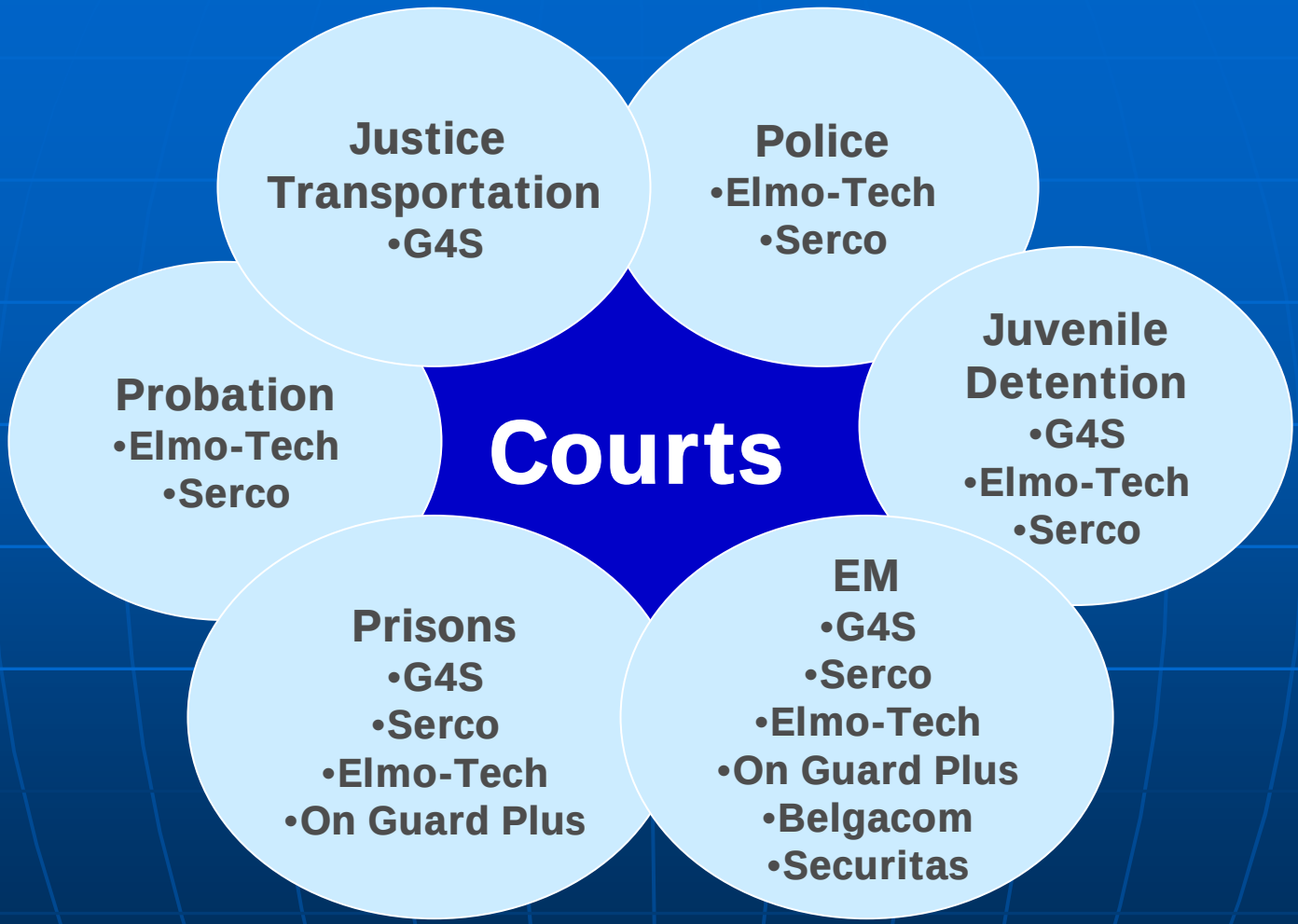
Transport
- G4S

Information Technology
- Serco

Utilities
- Serco

For-Profit Corporations and Justice Related Interests in Europe




Justice Transportation
•G4S
Police
•Elmo-Tech
•Serco
Probation
•Elmo-Tech
•Serco
Courts
Juvenile Detention
•G4S
•Elmo-Tech
•Serco
Prisons
•G4S
•Serco
•Elmo-Tech
•On Guard Plus
EM
•G4S
•Serco
•Elmo-Tech
•On Guard Plus
•Belgacom
•Securitas

Ladies and Gentlemen,

In this short introduction, I would like to tell you something about the current situation in the Netherlands with regard to applying electronic monitoring within the prison walls.

For quite some time, the Netherlands has had programmes in place, including forms of electronic monitoring, which are used for detainees who are not confined to prison; the home detention programmes. These programmes are open to both long-term detainees, who may serve the last part of their sentence at home and to short-term detainees, who serve their entire sentence at home. Home detention means that we use a static form of electronic monitoring; we can see whether the detainee is at home or not.
In addition, we have been running experiments with dynamic monitoring, which uses GPS technology. We also experiment with voice-verification technology, to make sure that football hooligans do not violate their banning orders, and the Probation Service will soon start applying alcohol remote control.

In this workshop, however, I would like to focus on tracking and tracing within the prison walls. We are currently running experiments in two prisons:

1. The low-security prison Bankenbosch in Veenhuizen.
This prison accommodates about 200 detainees who serve sentences ranging from a few days to eighteen months. Some of the detainees work outside the facility during the day. The premises are equipped with the TRACE system developed by Elmotech; all detainees wear anklets. This allows staff to monitor the movements of the detainees. In the beginning, the system was only used at night, to make sure that the detainees stayed within their department. This system proves really effective. During daytime, the system was not used. Data from the system can also be used to verify at a later date where someone was at a specific moment, for example if an incident had occurred. At present, the system is also used during the day. Heads are 'counted' electronically several times a day, and detainees that pose a certain risk are followed actively with the system at daytime.
We also have had our share of problems: it proved difficult to regulate the system accurately (which also has to do with the structure in which it is used: a lot of brick and wood), and in the beginning a lot of reports had to do with detainees sabotaging their anklet. Initially, the detainees wore a bracelet, and they were tempted to remove it. That is why we switched to using anklets; this results in a significant decrease in sabotage.
The costs of the system at Bankenbosch are:

Acquisition of system:	EUR 500,000
Running cost (replacement of anklets, maintenance and service)	EUR 100,000 per year.

The experiment in the Bankenbosch prison will run until the end of this year, after which it will be evaluated.

2. The prison in Lelystad.
In Lelystad, an experimental prison was built, with the aim of reducing staffing costs. Thanks to the design of the building, almost all movements within the building can be monitored from one central point. The distances between the cells and other departments are short and easy to oversee. The cells are shared cells, with a capacity of six, and the detainees do everything in a group of six or a multiple thereof.
The starting point is to give the detainees as much responsibility as possible. This Lelystad prison also uses a tracking & tracing system. Trials with systems of two different suppliers are

being held: Transquest and Geodan. Transquest works on the basis of zones, Geodan on the basis of triangulation.
Not only are the systems used for tracking & tracing, detainees can also use their bracelet to log in on a monitor next to their bed. That way, they can access several services: telephone, orders in the detainees' shop, registering visitors, registering activities, etc. Charges involved are directly debited from their account. Less staff is necessary because detainees can arrange these matters independently.

Results

Results may be found in three different areas:
- cost savings
- security
- ease of use for staff and/or detainees

As neither project has yet been evaluated, it is too soon to draw conclusions. However, I feel it would not be inappropriate to give a few pointers:
1. using electronic monitoring does not automatically result in cost savings. That is only true if less staff is necessary thanks to the use of electronic monitoring. That often requires a combination of electronic monitoring and other measures, such as a change in logistics within the prison.
2. implementation of electronic monitoring can definitely contribute towards more security. Staff, for example, will feel less insecure, but the same may be true for detainees (e.g. it may prevent fights and theft). However, there is the risk of overkill: sometimes the same result can be achieved with "old-fashioned" measures, such as using cameras.
3. it will only be easy to use for detainees if the system is combined with other systems, such as is done in the Lelystad facility. It is definitely convenient for staff, for example where electronic head counts need to be done, or where they no longer need to supervise detainees going from one place to the next within the institution. However, they need to be instructed on using the system: it generates so many data and reports that this may be experienced as a burden.

Last but not least, I would like to give you the following consideration: no doubt, there are advantages to using a Tracking & Tracing system within the prison. However, you should decide in advance what you want to achieve with it and how you want to use it.

Summary

The introduction is a brief description of two tracking & tracing experiments within prison facilities in the Netherlands.
The TRACE system developed by Elmotech is fitted in the buildings and on the terrain of Bankenbosch prison in Veenhuizen. Each detainee wears an anklet and can thus be localised.
In the Lelystad prison, Transquest and Geodan systems are being used. Again, detainees can be localised with it, but their bracelet also allows them to log in on an internal service system. This allows the inmates to take care of a lot of things independently, which previously required the intervention of staff members.

DANGEROUS OFFENDERS

John Scott (UK)

(Hand out 1:) Control Orders

The Prevention of Terrorism Act 2005

- The Government repealed Part 4 powers under the Anti-Terrorism, Crime and Security Act 2001 and replaced them with a system of control orders under the Prevention of Terrorism Act 2005.

- The Prevention of Terrorism Act 2005 gained Royal Assent on 11 March 2005.
- The legislation provides for the making of control orders against individuals who are suspected of involvement in terrorism-related activity, irrespective of their nationality or the nature of the terrorist activity (international or domestic).

Control orders

- Control orders are preventative orders which place one or more obligations upon an individual that are designed to prevent, restrict or disrupt his or her involvement in terrorism-related activity.

- These obligations may include prohibiting the individual from possessing specified substances, imposing a curfew and a tag, restricting communication with certain people and restricting movement to particular geographical area. Further examples are set out in the Act.

- Control orders are time limited and may be made for a period of up to 12 months at a time. An application for renewal has to be made thereafter.

- A breach of any of the obligations of the control order without reasonable excuse is a criminal offence punishable with a prison sentence of up to 5 years.

- There are two types of control order: non-derogating and derogating.

Non-derogating control orders

- Obligations contained within 'non-derogating control orders' do not amount to a deprivation of liberty within the meaning of Article 5 ECHR.

Derogating control orders

- Obligations contained within 'derogating control orders' would amount to a deprivation of liberty.
- To date, the Government has not sought a derogation from Article 5 of the ECHR.

Safeguards

- A number of safeguards designed to protect the rights of the individual are contained in the legislation. These include:

    - The Act itself is subject to an annual review by Lord Carlile, who will provide a report to Parliament on its workings
    - The Home Secretary must report to Parliament every three months on the operation of the powers
    - The Act must be renewed annually by vote in both Houses of Parliament

(Hand out 2:) UK Special Immigration Appeals Commission cases bailed from prison

The first notification of a bail will come from Special Case Unit (SCU) who will co-ordinate the bail hearing. If granted it is normal for an application to be granted in principle first but the subject will remain detained whilst his solicitors submit details of the proposed boundary to which he will be restricted and the Secretary of State puts suitable arrangements in place to monitor any conditions.

However, the period between the grant in principle and release can be very short, often a matter of a couple of days, so it is important to begin planning as soon as possible. SCU have been made aware that they should give as much notice as they are able.

The Local Enforcement Officer will be responsible for arranging for the subject to be released from his current place of detention, collecting and escorting the man to his residence, tagging him, overseeing the installation and calibration of monitoring equipment, meeting with the local police to establish a response protocol and put a restricted “special schemes” message on their systems, establishing a tagging protocol with the monitoring company and providing a contact officer team complete with a dedicated mobile phone. The following bullet points may be useful in achieving this.

A Obtain a Wing Report from the prison. This will detail the subject’s behaviour whilst detained and will inform the risk assessment process.

B Obtain as much background information on the subject as possible. This should include, but not be limited to, the notice of intention to deport, any existing SIAC judgements, an immigration history, threat assessment from the Security Service and recent photograph.

C Using details from the reconnaissance, wing report and background information prepare a risk assessment for the collection and transfer of the subject from prison to the address. Remember that he is not subject to arrest or the powers that flow from an arrest.

D Contact the Home Office Electronic Monitoring team via the national co-ordinator and advise them of the bail so that they can begin to prepare the monitoring contract and protocols.

E Contact the relevant contractor (Group 4 or SERCO) with details of the proposed address and ask them to conduct a site survey. This will show whether or not the address is suitable for their equipment. Also try to establish whether or not the property already has a landline installed, if not the monitoring contractor will need to supply a GSM unit.

F Arrange for the key holder or other authorised person to let the team into the premises on the day of release.

G Meet with the local police SMT (Senior Management team) and inform them of the bail. A protocol will be prepared by the SIAC co-ordinator in respect of the individual. Local managers, will provide them with background details and photographs, arrange for a special schemes restricted message to be placed on CAD and any entries that may be required in the book 41 (bail book).

H Ensure that either SCU or the national co-ordinator has made Press Office aware of the bail and any predicted timings. Ensure that if there is any media interest no information is released until after the team are safely away from the address after the bail has been effected.

When the subject is being installed in an address it is best practice to complete a Premises Search Book and prepare a plan of the property that can be held on file. This will be useful in the event that a rapid entry is required in the future.

ELECTRONIC MONITORING IN DENMARK

CEP

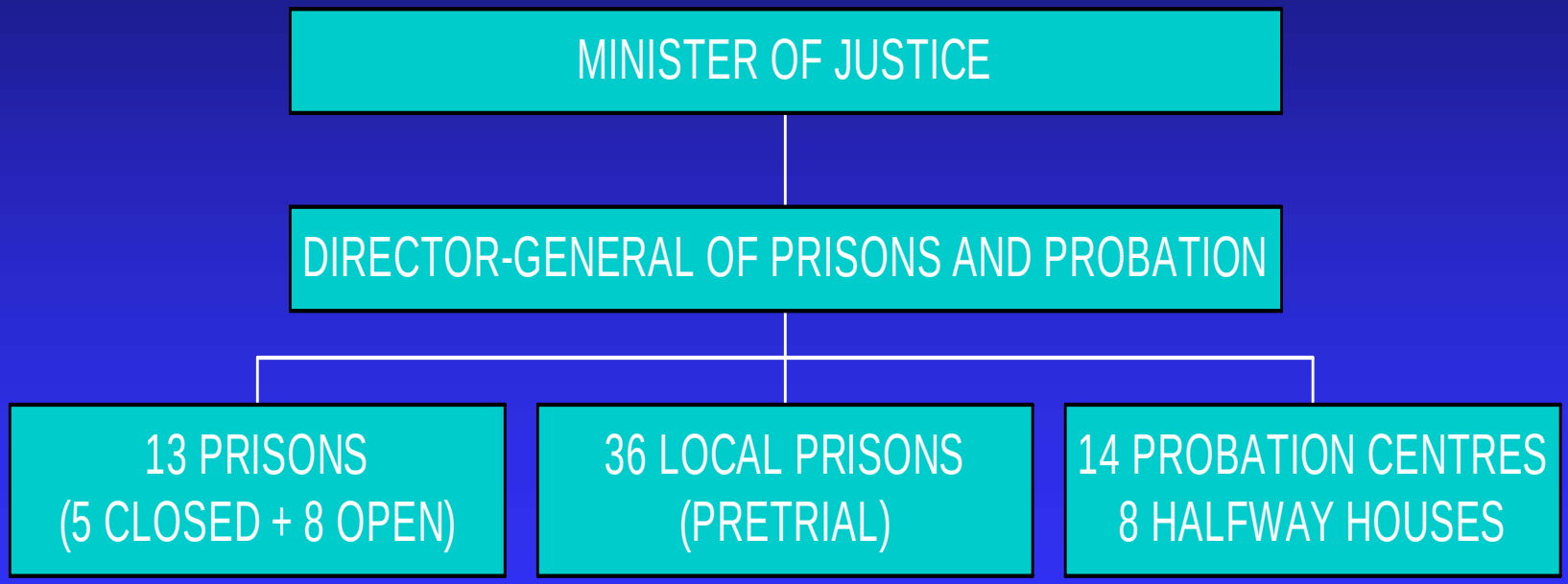
Conference on Electronic Monitoring

Egmond aan Zee

May 2007

Lisbet Heine, Chief Probation Officer

PRISON AND PROBATION SERVICE IN DENMARK



DENMARK - KEY FIGURES

- INHABITANTS: 5,3 mio.
- PRISONERS: 4.000
- PRISON RATE: 73 pr. 100.000 inh.
- PROBATIONERS: 9.000
- PRISON AND PROBAT. STAFF: 4.400
- ANNUAL BUDGET: 270 mio. euros

ELECTRONIC MONITORING

- Political interest for many years
- Survey about alternatives in 1998 – chose community service order
- Government introduced a bill i December 2004 aimed at a limited group (drunken drivers)
- Bill passed in May 2005 – start 1 July 2005
- Anticipated number: 150 daily
- As from 21 April 2006 the measure also covers young offenders up to 25 years with a maximum sentence of 3 months' imprisonment.

TARGET GROUPS

1) Traffic violation as main conviction
2) Young persons (under 25) regardless of offence

- Max. 3 months' imprisonment
- "Suitable":
  - Accomodation
  - Occupation
  - Other

IMPLEMENTATION

- Assessment of suitability
- Department of Prisons and Probation converts sentence
- Run by the Probation Service
- 7 (8) regions
- Special units
- Electronic system

CONDITIONS

- Not commit new crime
- Follow plan of activity
- Accept supervision and control – also unannounced
- No use of alcohol or drugs – will be tested
- Participate in a crime preventive program
- Perhaps other relevant conditions

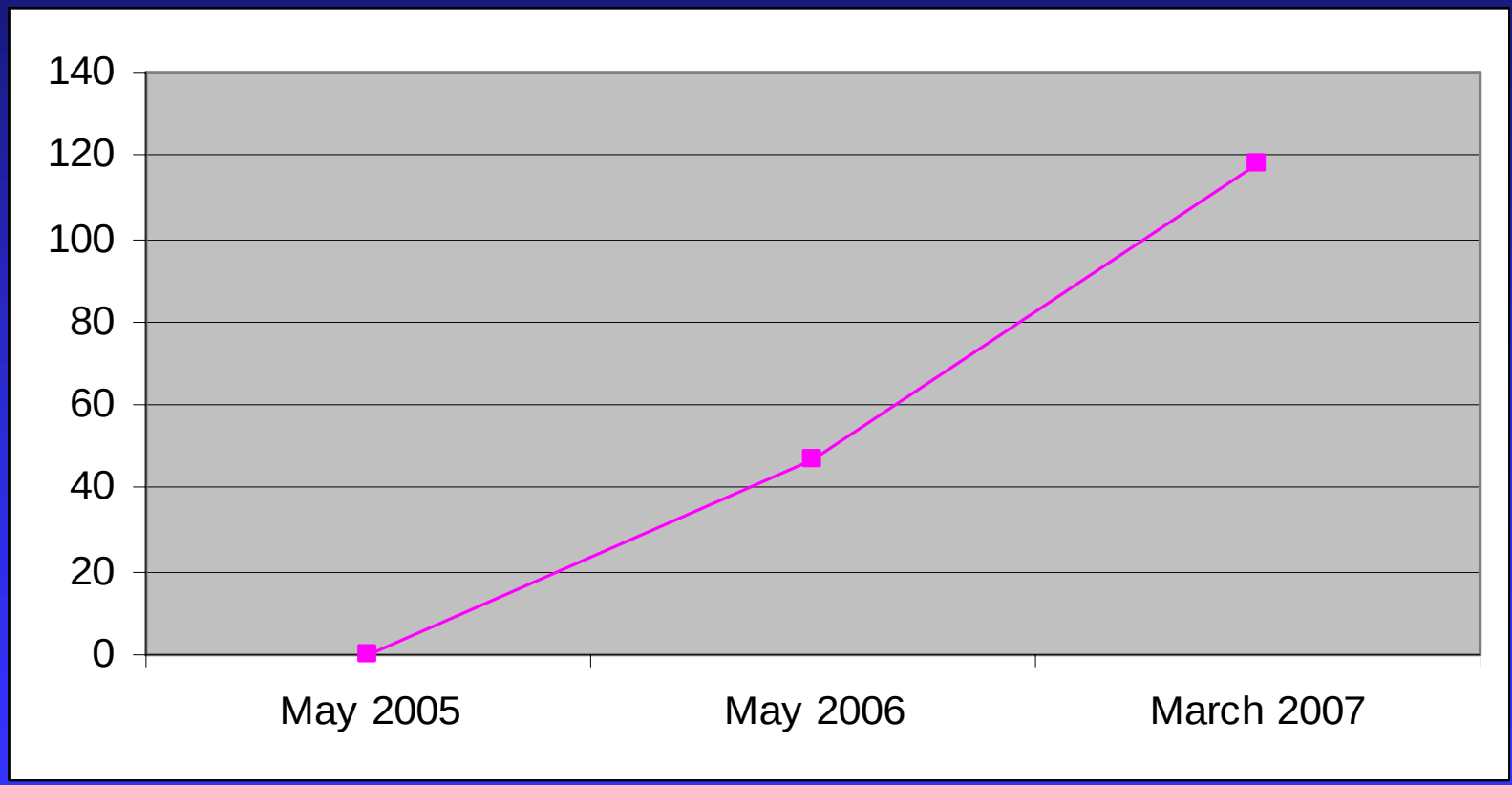
PLAN OF ACTIVITY

- Occupation
- Transportation
- Crime preventive program
- Perhaps visit to supervising authority
- 2 – 4 hours weekly for shopping etc.
- 1 hour on days without occupation
- ”Leave” for special purposes

REVOCATION

- On offender's request
- New crime
- Incarceration
- Requirements are no longer met
- Breach of conditions

INCREASE IN DAILY CAPACITY



ELECTRONIC MONITORING IN DENMARK
May 2005 - May 2007

- Applications 2155
- Permissions 1215
- Implementations 992
- Revocations 64

COSTS

	150 PRISON PLACES (OPEN PRISON)	150 PLACES IN ELECTRONIC MONITORING
PRELIMINARY EXPENSES	13 mill. euros	2.5 mill. euros
WORKING EXPENSES PER PLACE PER YEAR	38.000 euros	34.000 euros
WORKING EXPENSES PER PLACE PER DAY	108 euros	94 euros

PROBLEM AREAS

- Number of applicants to the scheme
- The technique
- Drug testing
- New working methods for the staff
  - Duty around the clock
  - Mixed professions
- Special units

Stratégies d'évaluation de l'impact du GPS sur les délinquants à haut risque aux États-Unis

Marc Renzema
Université Kutztown
renzema@kutztown.edu

Coïncidence

- Marc Renzema & Evan Mayo-Wilson, « La surveillance électronique peut-elle réduire la récidive chez les délinquants à haut et moyen risque ? », Journal of Experimental Criminology, juillet 2005, vol.1, n°2

- National Institute of Justice - RFP (demande de propositions) 2/07 : « Évaluation de l'efficacité de la surveillance électronique pour les délinquants à haut et moyen risque sous contrôle »

Critères d'inclusion	Caractéristiques retenues
Groupes de comparaison	Probation, liberté conditionnelle, PSI, prison, autre
Affectation par groupe	Aléatoire, par concordance, historique
Mesures de résultat	Incarcération, arrestation, condamnation, etc.

Problèmes chroniques des « bonnes » études

- Absence d'intégrité du traitement
- Mauvaise randomisation
  - Autres points de sélection
  - Comparaison entre les placés sous SE et ceux « laissés en arrière »
- Différentes périodes à risque

Autres problèmes

- Absence de distinction entre les conditions expérimentales et de contrôle
- Contamination du groupe de traitement
  - Service correctionnel de Floride (FDOC)

10 ans de recherche aux É.-U.

- 1997 : SE pour violence domestique (474k $) ; développement technique (50k $)
- 1998 : étude de faisabilité : surveillance sans GPS sur un secteur étendu
- 1999 : manuel des « bonnes pratiques » (108k $)
- 2006 : mise à jour du manuel (50k $)
- 2007 : demande de propositions (1 000k $)

Grandes lignes de la demande de propositions

- La SE n'est pas considérée comme un « programme »
- Préférence pour les études expérimentales
- Priorité aux délinquants présentant les plus grands risques
- Appréciation de la récidive avant et après le placement sous SE

Les leçons de la revue de mi-mars

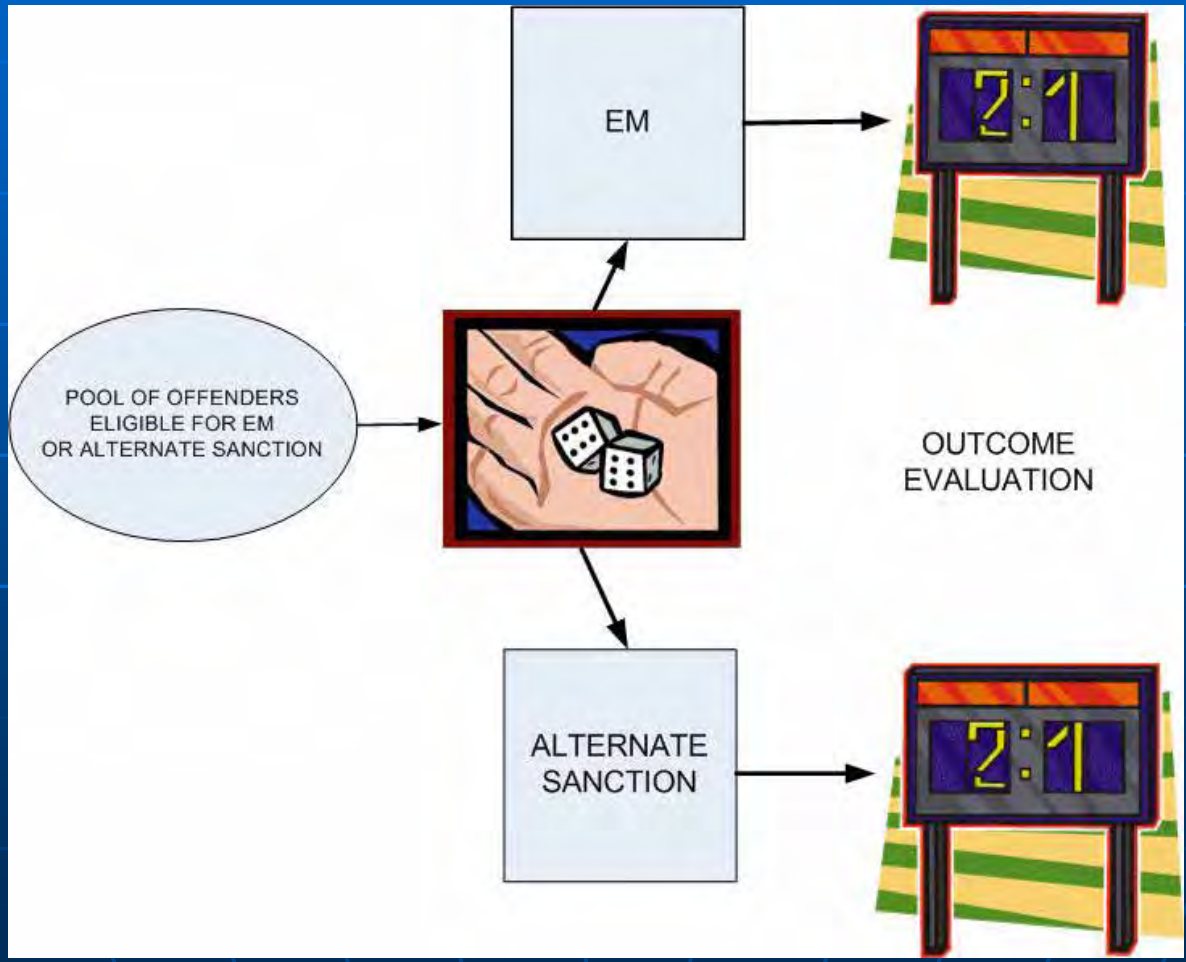
- 20% des propositions conviennent parfaitement en termes de génération des groupes de comparaison
- La plupart des propositions ne conviennent pas en termes de distinction de traitement et d'analyse coût-bénéfice

- LEÇON 1 : même un million de dollars ne permettent pas d'obtenir une étude définitive aux É.-U.

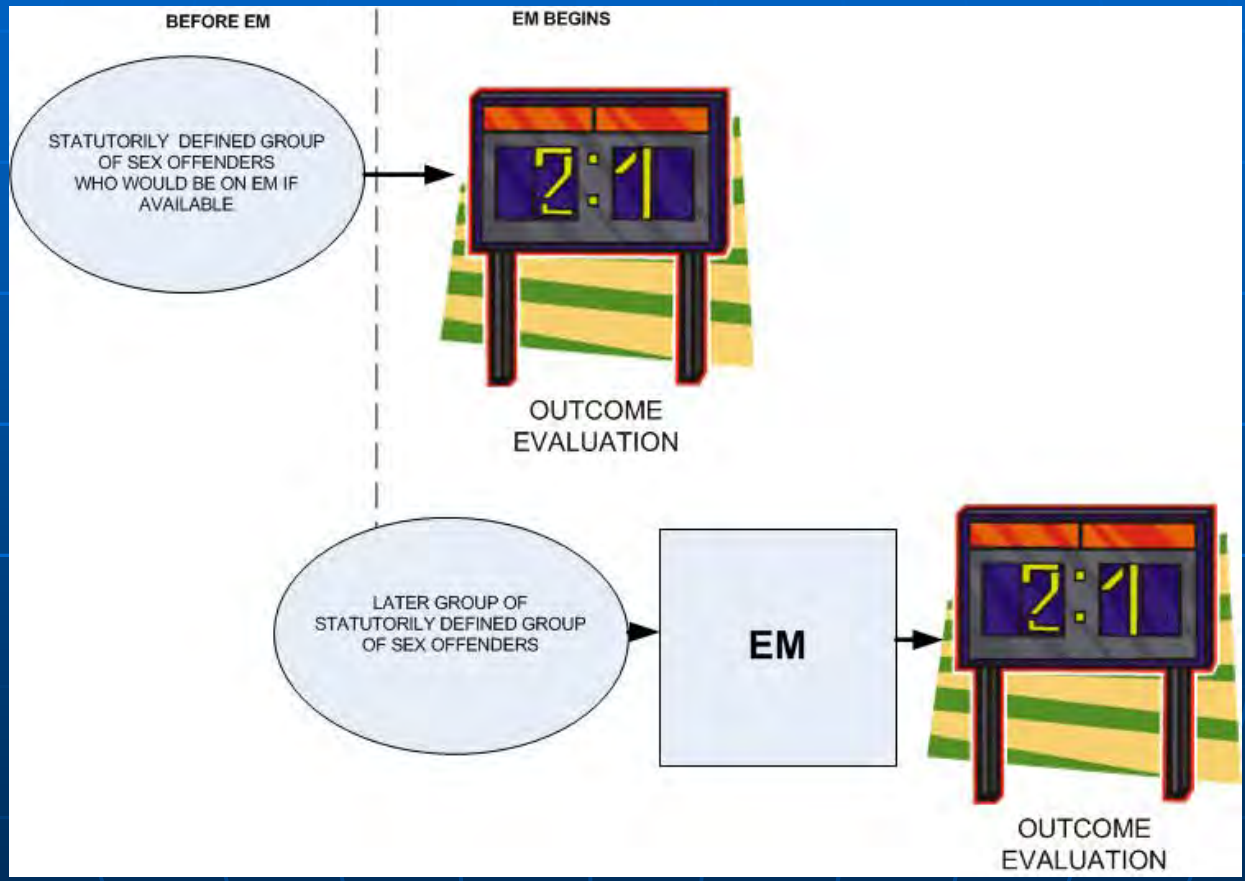
Leçons

- Leçon 2 : des coûts élevés
  - Codeurs et programmeurs
  - Cohortes insuffisantes → plusieurs sites
  - Distinction de traitement onéreuse
  - Totaux approximatifs : 250-1 000 $/individu
    - 300 E, 300C = 150-600 000 $

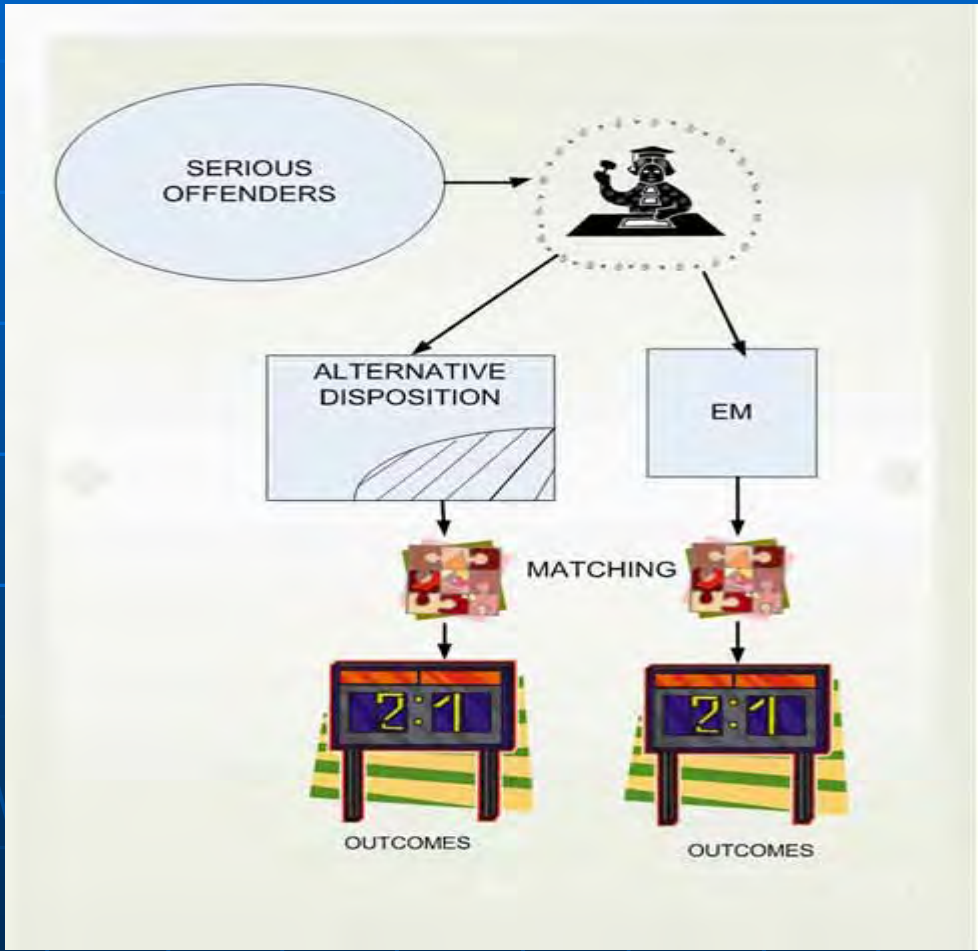
Leçons : post-test



Leçons : groupe statique (simplifié)



Leçons : concordance



Leçons

- Leçon 3 : même un pot de vin d'un million de dollars ne permet pas d'obtenir une affectation aléatoire aux É.-U.

- Leçon 4 : même des gens intelligents ne réalisent pas toujours une analyse de puissance

Leçons

- Leçon 5 : il peut être difficile de constituer les cohortes
  - Faute d'un nombre suffisant de délinquants classés correctement
  - Faute d'équipements suffisants
  - Particulièrement gênant pour les affaires de violence domestique
- Leçon 6 : se méfier de l'évaluation de programmes de lancement

Leçons

- Leçon 7 : les spécialistes en recherche sociale qui ont les moyens d'évaluer la procédure et les résultats des programmes semblent ne pas avoir de compétences en analyse coût-bénéfice.
  - Ils ne raisonnent pas non plus comme des géographes ni comme des cartographes.
- Leçon 8 : l'évaluation du processus n'a pas eu de succès

Voies non explorées

- Peut-on prévoir la récidive à partir des données de surveillance ?
- La SE améliore-t-elle l'assiduité au programme ?
- Existe-t-il un effet rebond ?
- Une diminution progressive est-elle plus efficace qu'un arrêt brusque ?

Autres voies non explorées

- Peut-on utiliser la SE pour améliorer le versement des pensions alimentaires ?
- Peut-on utiliser la SE pour saper les réseaux sociaux sur lesquels s'appuie le comportement délinquant ?
- La SE a-t-elle un impact différent sur les personnes présentant des troubles mentaux ?
- La fonction familiale influence-t-elle le résultat de la SE ?

Voies également non explorées

- Le GPS peut-il être utilisé pour préserver de la contagion criminelle les délinquants qui habitent des secteurs à fort taux de délinquance ?
- Des zones d'exclusion GPS établies explicitement pour réduire la visibilité de la cible peuvent-elles être plus efficaces que des limites généralisées ?
- Parmi les 4 catégories de GPS, laquelle donne les meilleurs résultats avec quel type de délinquant ?

La recherche sur la SE est peut-être enfin plus mûre aujourd'hui. Mais le prix a été élevé pour en arriver là.

John E. Couey,
Photo FDOC

De l'assignation à domicile à la surveillance mobile : genèse_et développement du placement sous surveillance électronique en France

Communication à la 5e Conférence sur la surveillance électronique (Egmond aan Zee, 10-12 mai 2007)

René Lévy[1]

Cette session est consacrée à une présentation et à une discussion du placement sous surveillance électronique en France, dans sa version fixe . Un autre atelier est consacré au PSE mobile. Elle comportera trois brêve présentation qui, je l'espère, vous permettrons de vous faire une idée assez précise de la situation française. Je vous présenterai tout d'abord le cadre général de l'organisation du PSE et son évolution ; puis, Annie Kensey (démographe à la DAP) vous décrira plus précisément les caractéristiques de la mesure et de la population visée . Enfin, Mme Roux-Desmariaux, magistrate responsable du PSE à la DAP nous présentera un certain nombre d'éléments ayant trait à la pratique du PSE .

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Institué en 1997, mais effectivement mis en œuvre à partir d'octobre 2000 seulement, le "placement sous surveillance électronique" (PSE) [*tagging*] a déjà fait l'objet de 4 réformes successives, en 2000, 2002, 2004 et 2005, visant à en étendre les utilisations. De sorte que si sa gestation fut lente, il a ensuite pris pied, loi après loi, dans toutes les phases du processus pénal . Aujourd'hui, un PSE peut être imposé au cours des phases pré- et post-sentencielles, mais également par la juridiction de jugement., pour les mineurs comme pour les majeurs, et prochainement même -- sous la forme du PSE mobile (PSEM) [*tracking*], comme une mesure de sûreté, une fois la peine principale purgée .

[1] René Lévy is Director of research at the Centre National de la Recherche Scientifique (France) and currently Director of the Groupe Européen de Recherches sur les Normativités (Guyancourt, France)

C'est dire que les gouvernements et les législateurs –à droite, et de plus en plus, à gauche -- placent en ce dispositif de fortes attentes .

A. Genèse et évolution du PSE

Des débuts laborieux

En France, le PSE apparaît pour la première fois dans un texte officiel en 1989, dans le rapport d'un député socialiste, Gilbert Bonnemaison, consacré à *La modernisation du service public pénitentiaire* (sous l'appellation d'assignation à domicile sous surveillance électronique ou ADSE)[2]. Cette mesure était associée à un *numerus clausus* pénitentiaire, destiné à limiter la surpopulation : il s'agissait de choisir, ceux parmi les détenus qui pourraient bénéficier du PSE, afin de libérer une place pour de nouveaux arrivants, dans un cadre soit pré-sententiel [*pre-trial*] (détention provisoire), soit post-sentenciel [*post-trial*](aménagement de peine) ; le rapport envisageait également l'utilisation du PSE comme un substitut aux courtes peines d'emprisonnement.

S'appuyant sur l'exemple de la Floride (et sur les projets alors à l'étude en Grande-Bretagne), le rapport faisait valoir que le PSE constituait *une sanction effective, alors que trop souvent on considère que la prison est la seule sanction réelle* (28)[3], tout en permettant de maintenir les rapports familiaux, de conserver un travail ou de suivre une formation et que son coût serait *nettement inférieur à celui de l'emprisonnement*[4].

Le rapport Bonnemaison esquissait les grandes lignes de ce qui allait devenir le dispositif français, mais il resta sans suite immédiate et la question fut reprise en 1995-1996 dans un nouveau rapport parlementaire, préparé cette fois par un sénateur de droite, Guy-Pierre Cabanel, et intitulé *Pour une meilleure prévention de la*

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2 Nellis, 1991, 168-171 ; 2003.

2 (Bonnemaison, 1989) ; sur la genèse de ce rapport, voir (Froment, 1998)a, 281-286.

3 On retrouve ici l'écho de la critique courante aux États-Unis, selon laquelle les mesures en milieu ouvert ne sont que *a slap on the wrist* (une tape sur la main) des délinquants ((TONRY, 1990), 184).

4 Le rapport Bonnemaison ne dissimulait pas les inconvénients du PSE : risque d'extension du contrôle social (*net-widening*), de discrimination sociale, d'atteinte à la dignité, tout en les relativisant ou les réfutant (29-30).

récidive[5]. Passant en revue les nouvelles expériences étrangères alors en cours d'expérimentation (Grande-Bretagne, Pays-Bas, Suède), le rapport Cabanel en concluait également que le PSE constituait un instrument efficace et financièrement avantageux de prévention de la récidive qui permettait de lutter contre la surpopulation carcérale. Le dispositif proposé visait surtout à substituer le PSE aux courtes peines d'emprisonnement et à aménager les fins des peines d'emprisonnement plus longues ; le rapporteur était nettement réservé sur l'utilisation du PSE dans la phase pré-sentencielle.

Dans le prolongement de son rapport, le sénateur s'efforça d'obtenir le vote d'une loi instituant le PSE. Il y parvint finalement avec la loi du 19 décembre 1997[6]. Elle établit le PSE en tant que mesure d'aménagement de la peine d'emprisonnement de moins d'un an, ou d'un reliquat de peine de moins d'un an[7].

De l'entrée en vigueur de la loi de 1997 à la mise en place du PSE, près de 3 ans se sont écoulés. À quoi ce délai inhabituel est-il dû ? Bien que certains auteurs ne partagent pas ce point de vue, j'estime que ce délai s'explique par l'impréparation et les réticences de l'administration pénitentiaire à l'égard du PSE. Dans le système politique français, en effet, il est exceptionnel qu'un parlementaire parvienne à forcer la main du gouvernement et obtienne le vote d'un projet dont il est l'initiateur. Dans la plupart des cas, les projets législatifs émanent au contraire des ministères, où ils ont généralement fait l'objet d'une assez longue préparation, appuyée sur des groupes de travail, des consultations d'expert et des études. Or, précisément, dans le cas du PSE, c'est bien après le vote de la loi que l'AP a dû faire réaliser une série d'études par une société de conseil en technologies, afin de recueillir l'opinion des cadres du ministère de la Justice, de dresser un bilan des expériences étrangères et d'élaborer les différents scénarios envisageables pour le

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5 (Cabanel, 1996)
6 Loi n° 97-1159 du 19 décembre 1997 consacrant le PSE comme modalité d'exécution des peines privatives de liberté.
7 (Kuhn, Madignier, 1998), 676 ; (Pradel, 1998); (Couvrat, 1998).

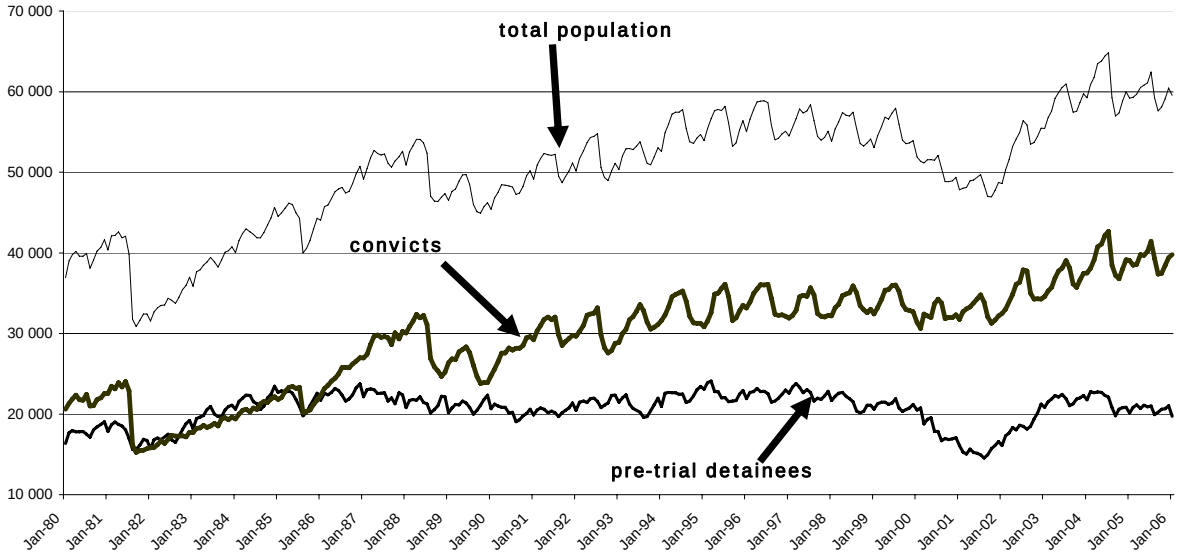
dispositif français ; bref, à recueillir, entre septembre 1998 et avril 1999, les informations de base indispensables à la réalisation[8].

En réalité, la cause de la relative inertie de la DAP doit probablement être recherchée dans l'évolution de la situation pénitentiaire. Comme le montrent le graphique suivant , entre le moment où le sénateur Cabanel entreprit son combat pour l'institution du PSE et le vote de la loi couronnant son entreprise, la situation démographique des prisons avait connu un retournement. Depuis le début des années 1980 et jusqu'en 1996, la population carcérale avait subi une hausse continue, même si son rythme n'était pas constant (graphique 1). Mais dans le courant de l'année 1996, la tendance bascula et la baisse se poursuivit jusqu'au deuxième semestre 2001. Or dans le même temps, le milieu ouvert était l'objet d'une croissance considérable, passant d'environ 100 000 personnes suivies (stock) en 1994 à 141 000 en 2002 . En d'autres termes, et quelles que soient les raisons de ces changements, il est clair que la DAP, déjà peu favorable au PSE, selon nous, n'avait guère de raison de se préoccuper d'une mesure en milieu ouvert supplémentaire alors même que la pression démographique sur les prisons diminuait.

Inversement, nous y reviendrons plus loin, le regain d'intérêt pour le PSE et les objectifs ambitieux que lui fixe dorénavant la DAP coïncident très exactement avec le renversement de tendance intervenu en 2001 et qui conduit à une croissance vertigineuse de la population incarcérée. Mais ce renversement correspond aussi, grosso modo, à un changement politique, avec la défaite de la Gauche aux élections présidentielles et parlementaires du printemps 2002.

[8] (Perrin, Kouliche, 1999). (Kaluszynski, Froment, 2003) estiment au contraire que l'AP était de longue date favorable au PSE, mais se heurtait à une absence de volonté politique, que l'intervention du sénateur Cabanel lui aurait permis de contourner . Cette thèse ne nous paraît pas compatible avec l'impréparation manifeste de cette administration.

Graph 1 : Évolution de population détenue depuis 1980



Une évolution accélérée par la compétition politique

L'extension du PSE s'est faite en plusieurs étapes, et, curieusement, dans l'ordre des phases du processus pénal.

La phase pré-sentencielle

L'extension du PSE s'est d'abord produite dans le domaine pré-sentenciel. La loi du 15 juin 2000 "renforçant la protection de la présomption d'innocence et les droits des victimes"[9] avait institué le PSE comme l'une des mesures visant à faire diminuer l'usage de la détention provisoire . Cette préoccupation est permanente en France depuis deux siècles et on ne compte plus les réformes visant ce but, véritable rocher de Sysyphe de la justice française [10] . Dans cette perspective, le PSE n'était applicable qu'aux infractions encourant une peine au moins égale à 3 ans d'emprisonnement . Après le retour au pouvoir de la Droite en 2002, la loi du 9 septembre 2002 a supprimé cette disposition et, à sa place, a érigé le PSE en alternative au contrôle judiciaire , lequel peut être prononcé quelle que soit la peine

[9] Surnommée Loi Guigou, du nom de la ministre socialiste de la Justice de l'époque, Elisabeth Guigou.
[10] Robert, 1992 .

encourue [11] . Du point de vue de la réduction du nombre des détenus, cette nouvelle mesure est ambiguë, puisque désormais le PSE peut soit constituer une alternative plus coercitive au contrôle judiciaire normal (voire même se substituer à une liberté pure et simple), soit se substituer, comme une alternative plus douce, à la détention provisoire (ce qui aurait systématiquement été le cas dans le dispositif de la loi de 2000). Etant donné que la fréquence d'utilisation de la détention provisoire est un facteur déterminant des variations de la population pénitentiaire à court terme -- dans la mesure où le nombre d'incarcérations pour ce motif représente environ ¾ de l'ensemble des incarcérations (en flux); considérant, d'autre part, que ce nombre avait brutalement varié au cours du deuxième semestre de 2001, de sorte que le nombre d'entrées en prison de ce chef avait augmenté de 26% entre 2001 et 2002[12], contribuant fortement à la hausse brutale de la population détenue -- on aurait pu s'attendre à ce que législateur se concentre d'abord sur les moyens de rendre plus efficace une alternative à la détention provisoire qui, mal conçue et peu commode d'utilisation dans la loi de 2000, était restée inappliquée.

La phase sentencielle

Les réformes ultérieures traduisent plutôt la déception du gouvernement face à un décollage jugé trop lent de la mesure et elles visent à le stimuler de diverses manières, quitte à renoncer à la philosophie initiale de la mesure et à oublier les arguments de prudence qui la justifiaient . C'est ainsi qu'en 2004, on a autorisé les tribunaux à prononcer un PSE, et les procureurs à le proposer dans le cadre d'une nouvelle procédure de règlement rapide des affaires qui s'inspire du *plea-bargaining* , la comparution sur reconnaissance préalable de culpabilité (CRPC). On est donc passé d'une mesure *back-door* à une mesure *front-door*, que l'on rejetait auparavant comme étant de nature à favoriser le *net-widening*[13].

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11 Pitoun and Enderlin-Morieult, 2003. Le contrôle judiciaire est une alternative à l'emprisonnement avant jugement qui permet de soumettre l'intéressé à des mesures de contrôle, à des restrictions de la liberté d'aller et venir ou à une caution.

12 En 2001, à la suite de la loi du 15 juin 2000, le nombre des prévenus était passé de 17669 en 2000 (33,9% des détenus) à 14 945 (30% des détenus); elle est remontée à 18469 (32,7%) en 2002, 21 925 (36%) en 2003, 22 110 en 2004 (34%) et revenir à 20 999 en 2005 (33,6%) (Source: DAP, statistique trimestrielle de la population incarcérée, au 1er juillet de chaque année).

13 Sur ce point, voir Lévy, 2003, en particulier p. 18 s.

La phase post-sentencielle

On n'a pas pour autant négligé l'aménagement des peines . Au contraire, on a modifié la procédure post-sentencielle de manière à donner davantage d'initiative aux services de probation face au juge d'application des peines, dans la mise en œuvre des diverses mesures d'aménagement des peines, revenant en partie sur les dispositions de la loi du 15 juin 2000 . Alors que cette dernière avait fortement accentué le caractère juridictionnel de la procédure d'aménagement des peines, au nom des droits de la défense, la loi du 9 mars 2004[14] a au contraire renforcé le rôle des services correctionnels et de probation dans le dispositif .

Il serait cependant simpliste de ne voir dans ces aller-retours qu'une manifestation de l'opposition, en quelque sorte classique, entre une Gauche soucieuse des libertés et renforçant les pouvoirs du juge, et une Droite plus autoritaire, réduisant ces derniers au profit de l'exécutif . Il faut en effet se souvenir que la Droite ne s'était pas opposée à la réforme de 2000; loin de voter contre ce projet, les parlementaires de Droite s'étaient abstenus, au motif que le texte n'allait pas assez loin dans la protection des personnes mises en cause . Or, s'il n'est pas douteux que la réforme de 2004 est en grande partie dictée par le fait que l'indépendance statutaire des JAP [*penalty enforcement judge*][15] les rend peu sensibles aux injonctions de politique pénale venues du gouvernement, contrairement aux services correctionnels, elle procède également de la volonté d'explorer plus systématiquement les possibilités d'aménagement des peines, surtout dans leur phase finale, de manière à limiter les "sorties sèches". Et c'est pourquoi elle contraint désormais ces services à examiner la situation de tous les détenus dans cette perspective. Il n'y a donc pas véritablement rupture avec l'idéologie de la resocialisation, mais plutôt une manière plus pragmatique de la mettre en œuvre[16].

Les mesures de sûreté et le PSEM

[14] Loi n°2004-204 du 9 mars 2004 portant adaptation de la Justice aux évolutions de la criminalité, dite aussi Loi Perben 2, du nom du ministre UMP (droite) de la Justice.
[15] Le JAP est un magistrat du siège chargé de l'éxécution des peines et de leur aménagement en fonction des circonstances et de la situation personnelle du condamné . Il s'appuie pour ce travail sur les *Services pénitentiaires d'insertion et de probation* (SPIP) placés auprès de chaque tribunal.
[16] Cette démarche s'inspire du rapport du député Jean-Luc Warsmann, qui bien que proche du ministre de la Justice Dominique Perben, reste fortement marqué par l'idéologie de la resocialisation (Warsmann, 2003) . Voir Cardet, 2005a

Par contre, l'innovation la plus récente dans le domaine de la SE est d'un tout autre ordre, à la fois par les intentions et les moyens . Même si les justifications officielles empruntent encore au discours de resocialisation, c'est le doute envers cette dernière qui a poussé les politiques à franchir le pas de la SE mobile [*tracking*] . L'obsession de la récidive[17] est en effet au cœur de la loi du 12 décembre 2005. L'apparition subite du PSEM sur l'agenda politique doit beaucoup au contexte des rivalités politiques au sein de l'UMP, le parti de droite au pouvoir et, en particulier aux rivalités dans la course à la candidature aux élections présidentielles. Elle résulte, en effet, d'un compromis entre les partisans et les adversaires de Nicolas Sarkozy, aux termes duquel le PSEM s'est imposé comme un contrefeu à la volonté de sarkozy d'obtenir des peines-plancher incompressibles pour les récidivistes (objectif qui figure d'ailleurs toujours à son programme présidentiel). Je n'entrerai pas davantage dans les péripéties parlementaires de la genèse du PSEM, puisqu'un autre atelier y est consacré.

Le tableau 1 résume l'ensemble des modalités du PSE/PSEM.

B. La situation actuelle du PSE

Comme on vient de le voir, le PSE est désormais omniprésent dans le processus pénal, du moins sur le papier . En est-il de même dans la réalité et quelle est son utilisation effective ? Les deux communications qui vont suivre vous donneront davantage de détails sur le développement du PSE depuis 2000.

Je vais donc me contenter, avant de leur céder la parole, d'aborder deux aspects de la mise en oeuvre du PSE : celui du partage des rôles entre secteur public et secteur privé ; et celui du coût du PSE .

Les rôles respectifs des secteurs publics et privés dans la mise en oeuvre du PSE

L'organisation actuelle du PSE repose sur un partage des tâches entre l'administration et des entreprises privées dont le rôle se limite à la location et à l'entretien du matériel fourni. L'ensemble des opérations, y compris la

[17] Pour paraphraser Schnapper, 1991 .

télésurveillance incombe aux personnels pénitentiaires. La surveillance repose sur douze centres régionaux de surveillance en France métropolitaine (et un en Martinique)[18], dispositif manifestement surdimensionné lorsqu'on sait que la Grande-Bretagne n'en comporte que trois (un par prestataire) et que la Floride, un seul , avec deux agents en permanence. En 2004-2005, il avait été question de ramener le nombre de de centres de surveillance à trois, dans le cadre d'un nouveau marché national . Cette réforme se serait accompagnée d'une redéfinition des rôles respectifs de l'administration et des prestataires de service: l'administration n'aurait conservé que les fonctions dites "de souveraineté" (pose/dépose du bracelet , tenue des dossiers, suivi des mesures, intervention en cas d'alerte), mais la fonction de surveillance aurait été privatisée . Toutefois, bien que le cadre juridique du PSE ait été réaménagé en ce sens, ce projet n' a pas encore eu de suite, après qu'un premier appel d'offres eût été retiré en mars 2005 . Il est possible que ce retard ait été justifié par la perspective de l'instauration prochaine du PSEM , afin de lancer ultérieurement un appel d'offres concernant les deux mesures[19] .

Combien coûte le PSE ?

Le moindre coût du PSE par rapport à l'emprisonnement est l'un des arguments les plus souvent avancés par les partisans de cette mesure[20]. Sans entrer ici dans la discussion de l'évaluation du coût réel de cette mesure, qui est plus délicate qu'il y paraît, on observera que les informations les plus diverses apparaissent dans les différents rapports officiels consacrés à sa mise en oeuvre[21] . Le tableau 2 récapitule les informations disponibles.

[18] Cour des comptes, 2006, p.111
[19] Sur l'externalisation de la surveillance: Cardet, 2005b
[20] Voir en ce sens le dossier de presse préparé par le Ministère de la Justice lors du lancement de l'expérimentation, en septembre 2000 (Ministère de la justice, 2000 (Fiche 6).
[21] Sur le calcul des coûts, voir Lévy, 2003, p.23-25.

Tableau 2 : Estimations du coût unitaire journalier des différentes sanctions ou mesures pénales (en €)[22]

	Rapport Warsmann (2003)	Rapport Fenech (2005)	Cour des Comptes (2006)
PSE	22	11	10
PSEM	-	≈ 60	
Semi-liberté	20-30	-	27,63
Placement extérieur	12-18	-	-
Maison d'arrêt	55,80	60	39

On ne peut qu'être frappé par la disparité de ces données, tantôt approximatives et tantôt d'une extraordinaire précision apparente . La comparaison entre ces différentes estimations est rendue difficile par le fait que les bases du calcul ne sont pas clairement précisées ou sont disparates : Warsmann compare ainsi un coût journalier du "matériel" de PSE , c'est-à-dire un loyer, "dans la phase de lancement actuel" (le déploiement n'étant pas achevé) avec un coût de maison d'arrêt "calculé sur l'effectif de référence de l'établissement , et ne tenant pas compte des charges patronales et des frais d'amortissement"[23] . Par ailleurs, la division par deux du prix de revient du PSE dans les autres rapports ne peut s'expliquer par la montée en puissance de la mesure, puisque le loyer des appareils est dû, quel que soit le nombre en service effectif et du reste, le coût indiqué par la Cour des Comptes repose sur des données de 2003, soit l'année de rédaction du rapport Warsmann. Or, toutes ces données proviennent en définitive de la DAP !

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[22] Warsmann, 2003, p.44 ; Fenech, 2005, p.23 et 34 (indique pour le PSEM une fourchette allant de 8 à 150 €, selon les fournisseurs interrogés, alors que le coût serait de 98,70 € au Royaume-Uni et de 10 à 13 $ aux Etats-Unis) ; Cour des comptes, 2006, p. 108 (données 2003); ce dernier rapport est particulièrement sévère pour les méthodes d'évaluation des coûts de la DAP, notamment dans le domaine des établissements pénitentiaires à gestion mixte (dont certaines fonctions sont confiées à des prestataires privés, comme dans le cas du PSE), voir p. 172 et s.

[23] Ni, du reste, de la surpopulation avérée de ces établissements voués à la détention avant jugement et aux courtes peines.

Cette incertitude des données officielles ne se limite pas à l'aspect économique du PSE. Elle s'étend aussi aux conditions de sa mise en oeuvre . Curieusement, s'agissant d'une mesure présentée comme innovante et promise à un grand avenir, la DAP ne dispose que d'un instrument statistique extrêment rudimentaire, qui ne donne que deux types d'informations: combien de PSE ont été mis en œuvre dans chacune des 9 directions régionales de la DAP et de quelle manière la mesure s'est achevée[24] . En d'autres termes, la DAP n'est en mesure de préciser ni les caractéristiques des personnes visées, ni leur situation pénale (càd la variante de PSE mise en œuvre et la phase ce la procédure pénale concernée)[25] . Pour préciser les cibles du PSE, il faudra donc s'appuyer sur l'unique recherche disponible, dont Annie Kensey va maintenant vous présenter les principaux résultats.

[24] Selon quatre modalités : achèvement normal; admission à un autre aménagement de peine; retrait de la mesure (sanction), et parmi ceux-ci, le nombre d'évasions.

[25] Cette carence surprenante n'est pas propre au PSE ; le rapport Clément –Léonard observait qu'à propos du suivi socio-judiciaire, ni le ministère de la Santé, ni la DAP n'étaient en mesure d'indiquer combien de ces suivis étaient assortis d'une injonction de soins (en principe suivies par les SPIP); ces administrations n'étaient même pas en mesure d'indiquer le nombre de "médecins coordonateurs", en principe chargés de mettre ces mesures médicales, ni a fortiori, de chiffrer leur activité (Clément and Léonard, 2004, p.57)

Tableau 1 : Récapitulatif des conditions de mise en œuvre des différentes modalités du PSE et du PSEM

Phase	Situation	Infractions	Conditions légales	Autres conditions	Type	Décideur	Durée	Texte initial	Référence
Avant jugement	Contrôle judiciaire	Tout délit ou crime puni d'emprisonnement	Durée doit être spécifiée par le juge Accord du prévenu et de ses cohabitants[26] Assistance avocat obligatoire	Activité professionnelle/ études/ formation/ traitement médical/famille	tagging	JI, JLD,JE, TC (si renvoi de l'affaire)	1 an maximum	L. 2002-1138, 9 sept. 2002 D.2004-243, 17 mars 2004	Art. 138 CPP Art. R 57-33 CPP
Jugement	Ab initio.	Toutes	Peine ou reliquat de peine d'emprisonnement < 1 an Accord du prévenu et de ses cohabitants Assistance avocat facultative[27]	Activité professionnelle/ études/ formation/ traitement médical/famille	tagging		1 an maximum	L. n° 2004-204 , 9 mars 2004	Art. 132-26-1 CP et s.
	CRPC	Délits encourant une peine égale maximale de 5 ans d'emprisonnement	Peine ou reliquat de peine d'emprisonnement < 1 an Accord du prévenu et de ses cohabitants Assistance avocat obligatoire	Activité professionnelle/ études/ formation/ traitement médical/famille	tagging	Proposition Proc; décision JAP	1 an maximum	L. n° 2004-204 , 9 mars 2004	Art. 495-8 CPP
Post-sentenciel	Alternative à l'emprisonnement	Toutes	Peine ou reliquat de peine d'emprisonnement < 1 an Accord du prévenu et de ses cohabitants Assistance avocat facultative	Activité professionnelle/ études/ formation/ traitement médical/famille	tagging		1 an maximum	L. 97-1159, 19 déc. 1997 D.2002-479, 3 avril 2003	Art. 723-7 CPP
	Fin de peine	Toutes	Emprisonnement 6 mois à 2 ans : reste 3 mois Ou emprisonnement 2 à 5 ans: reste 6 mois Accord du prévenu et de ses cohabitants Assistance avocat facultative	Activité professionnelle/ études/ formation/ traitement médical/famille	tagging	DSPIP/JAP	1 an maximum	L. n° 2004-204 , 9 mars 2004	Art. 707 CPP
	Libération conditionnelle	Toutes	Condamnation en cours Accord du prévenu et de ses cohabitants Assistance avocat facultative	Activité professionnelle/ études/ formation/ traitement médical/famille	tagging	DSPIP/JAP	1 an maximum	L. 97-1159, 19 déc. 1997	Art. 723-7 al.1 CPP
	Libération conditionnelle	Infractions sexuelles (encourant suivi socio-jud.)[28]	Condamnation en cours Accord du prévenu Assistance avocat facultative		tracking	JAP	1 an maximum	L. n°2005-1549, 12 déc. 2005	Art. 723-7 CPP
	Suivi socio-judiciaire	Infractions sexuelles (encourant suivi socio-jud.)	Majeur Emprisonnement 7ans + Consentement requis Assistance avocat facultative Expertise médicale (dangerosité)		tracking	Juridiction de jugement JAP	Délit: 2x2 ans Crime: 3x2 ans	L. n°2005-1549, 12 déc. 2005	Art. 131-36-9 à 131-36-13 CP Art. 763-10 à763-14 CPP Art. 763-3 CPP
Mesure de sûreté	Surveillance judiciaire	Infractions sexuelles (encourant suivi socio-jud.)	Emprisonnement 10 ans + Consentement requis . assistance avocat obligatoire Expertise médicale (dangerosité)		tracking	JAP	Durée égale aux réductions de peines	L. n°2005-1549, 12 déc. 2005	Art. 723-29 à 723-37 CPP

[26] Co-propriétaire ou co-locataire de son domicile; si le lieu d'assignation n'est pas son domicile, accord du maître des lieux (employeur, par exemple).

[27] Dans tous les cas, l'assistance d'un avocat est obligatoire pour les mineurs.

[28] Cette catégorie englobe un très grand nombre d'incriminations . Il s'agit principalement d'atteintes volontaires à la vie, aggravées par un viol, d'aggressions sexuelles proprement dites (viols ou autres) ou de tentatives, de proxénétisme envers des mineurs ou des personnes vulnérables, de corruption de mineur, de pornographie visant des mineurs, d'atteintes sexuelles sur mineurs de 15 ans (notamment l'inceste) .Pour le détail des infractions visées, voir Lavielle and Lameyre, 2005, tableau 43.21A, p.437-438 .

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Offender Tracking in England 2004-2006

5th European Electronic Monitoring Conference

11 May 2007

Steve Birkett

Satellite Tracking Project Manager

National Offender Management Service

NOMS National Offender Management Service

Working together to reduce re-offending

Introductions

- Steve Birkett – Tracking Pilots Project Manager – National Offender Management Service – Home Office

- Carolyn Smith – Local Pilot Project Manager – Greater Manchester Probation Service

- Jeff Ballard – Local Pilot Project Manager – Wessex Intensive Supervision and Surveillance Programme (ISSP)

Scope of Workshop Presentation

- What did we do in England, why did we do it, and who did we do it to?
- What can the technology do and cannot do?
- How should the right expectations be set?
- Who should be involved in the creation of a tracking service?
- What are the important components of a successful tracking service?
- What are realisable benefits of tracking?
- What are the important developments in tracking technology e.g one piece kit?
- What does the future hold?

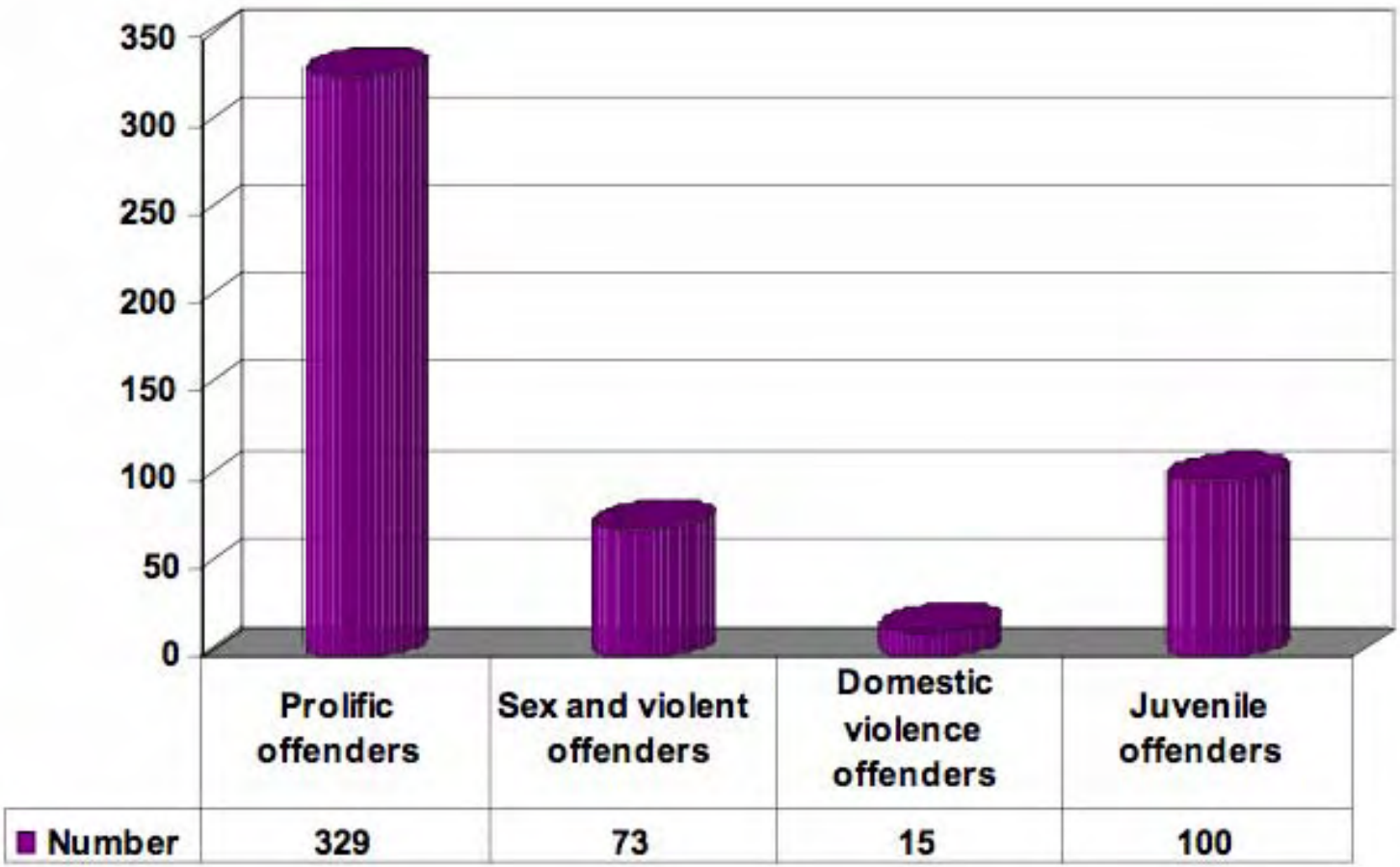
Tracking Pilots – what did we do?

- When – September 2004 to June 2006
- Where:
  - Greater Manchester – selected districts
  - West Midlands – selected districts
  - Hampshire and Isle of Wight
- How many – maximum of 40 offenders at any one time in each area
- Average caseload – 80 in the 3 areas over last 12 months
- Total number – 517 offenders

Why did we do it?

- Search for effective alternatives to custody for those on the border of imprisonment
- Increasing concern for public protection, particularly of victims
- Provide means of monitoring whereabouts of prisoners released on licence – for deterrence and aiding investigation of crime
- Provide means of monitoring compliance with an exclusion requirement, either as a community sanction or on licence

Who did we do it to?



NOMS National Offender Management Service
Working together to reduce re-offending

What the technology cannot do

- Prevent re-offending
- Prevent an offender or entry to exclusion zone
- Provide complete and accurate coverage of an offender's movements 24 hours a day
- Pinpoint an offender's location
- Tell us what the offender is doing

What the technology can do

- Provide the most robust means of monitoring compliance with an exclusion zone, short of personal surveillance
- Provide the most robust means of monitoring an offender's movements, short of continuous surveillance
- Act as a deterrent on re-offending
- Provide location information that may rule offenders in or out of criminal investigations

What are the realisable benefits of tracking?

- Additional tool – backs up prohibitions in a supervision /risk management plan
- Triggers intervention to interrupt offending and protect victims
- Provides intelligence to rule offenders in or out of investigations
- Provides effective means of enforcing exclusion requirement
- Reduces prison population

How should the right expectations be set?

- Ensure that tracking is used to supplement comprehensive risk management plans
- Be clear as to what the technology can or cannot do
- Develop a media handling strategy
- Undertake extensive training programme for stakeholders
- Explain fully the implications to any potential victims

Who should be involved in creation of tracking service?

- The Authority (Ministry of Justice in UK) – policy and technical input
- Probation Service/Youth Offending Team
- Police
- Electronic Monitoring Contractors
- Victims

What are the important components of a successful tracking service?

- Comprehensive preparation and training
- Clarity of stakeholder roles
- Full participation of all stakeholders
- Provision of full up-to-date guidance
- Production of easily understandable and usable quality data
- Viability on a cost benefit basis
- Delivery of a consistent, workable and enforceable service

What are the important developments in tracking?

- One-piece units
- Improved means of monitoring exclusion zones
- Increasingly sensitive GPS equipment
- Improved mobile phone location systems
- Alternative tracking systems – inertial sensors, LORAN
- Inclusion of proven geographical information systems
- Galileo – new European satellite network – due 2012

Offender Tracking – What is the way forward

- Public protection paramount, particularly for victim
- Strive for continual technical development, but work within, and accept, limitations
- Reduce need for offender management of equipment
- Be flexible, and produce scheme adaptable to local needs
- In England – exploration of options – possible use of further pilots or pathfinders

Home Office
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Communication Development Unit
Room 201,
Home Office,
50 Queen Anne's Gate,
London SW1H 9AT.

Tel: 020 7273 2084
Fax: 020 7222 0211
publications.rds@homeoffice.gsi.gov.uk

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A year on the tag: interviews with criminal justice practitioners and electronic monitoring staff about curfew orders

Isabel Walter, Darren Sugg and Louise Moore

Curfew orders with electronic monitoring as a sentence of the courts were rolled out across England and Wales on 1 December 1999 following trials of the curfew order in seven areas. These findings present key results from interviews conducted with criminal justice practitioners and electronic monitoring staff for an evaluation of the first year using the new sentence nationally. They consider suitable cases for curfew; the use of joint and stand-alone curfew orders; proposing, imposing and bringing breaches of the tag; and the advantages and disadvantages of the sentence.

Key points

- Most criminal justice practitioners saw curfew orders as a 'top end' community penalty but some recognised their flexibility in terms of use and tariff.
- Respondents thought curfews particularly suitable for offending that occurs at specific times and places ('pattern' offending); where custody was likely but inadvisable; and when other community penalties had been breached or were unsuitable.
- Most felt curfew orders inappropriate for sex offenders, very violent offenders, and where they raised domestic violence or child protection issues. Opinions were divided as to the value of tagging for offenders with chaotic lives and for substance misusers.
- Practitioners favoured the use of curfew orders alongside other community penalties which could support and build on the consequences of being tagged. Some respondents also saw value in stand-alone curfews, to punish, to reduce offending opportunities and to force offenders to reflect on their behaviour.
- Take-up of curfew orders in non-trial areas has been slow. Practitioners felt inundated by new initiatives and curfew orders had yet to make their mark as a sentencing option. Lack of knowledge about and confidence in the order had also inhibited use.
- Bringing breaches of curfew orders had raised both legal and practical difficulties. Additionally, respondents were concerned that courts' approach to breaches of curfew were inconsistent.
- Practitioners liked the fact that curfew orders provided clear evidence of compliance and offered a cost-effective alternative to prison which made sense to the general public. However, they were concerned that tagging might stigmatise offenders and thought curfewees needed built-in support.
- Respondents generally saw curfew orders as an underused sentence with considerable potential. They felt more inter-agency working and sharing of information would improve practice.

Sections 12 and 13 of the Criminal Justice Act 1991 made provision for the introduction of electronically monitored curfew orders. Trials of the new sentence began in Greater Manchester, Norfolk and Berkshire in 1995 and were expanded to Cambridgeshire, Middlesex, Suffolk and West Yorkshire from 1997. Evaluation results from the first two years of the trials (see Mair and Mortimer, 1996; Mortimer and May, 1997; Mortimer, Pereira and Walter, 1999) were

encouraging. Curfew orders were popular with sentencers and produced average completion rates of over 82%, while the technology worked well. Based on this success, the order was rolled out to all courts in England and Wales on 1 December 1999.

The first year of national use is being evaluated to assess the effectiveness of curfew orders with electronic monitoring and to examine whether the experience of the trials is replicated. Five areas participated in the research: Inner London, Kent, Merseyside, West Glamorgan and Greater Manchester – an original trial area. Interviews and focus groups have been conducted in these areas with:

- practitioners from probation services
- youth offending teams
- magistrates' courts.

In addition, staff from the three electronic monitoring companies operating in the five areas were interviewed.

Questions covered respondents' experiences of and views on the new sentence.

SUITABLE CASES FOR CURFEW

In line with previous research (e.g., Mortimer, Pereira and Walter, 1999), the majority of those interviewed located curfew orders towards the top end of the community penalty band. However, others pointed out the variability of the sentence in use and tariff:

> *It's a very flexible order and you can tailor it to suit an individual's needs as well as suiting the community's needs* (lay magistrate).

Some probation and youth offending team staff thought curfew orders would also be useful lower down the sentencing scale. However, they thought that this might affect cases at the top end of the sentencing scale and make custodial use more likely ('up-tariff' cases).

Respondents were often reluctant to generalise about what kinds of offender and offence might be suitable for a curfew order, emphasising the need to consider each case individually. Nevertheless, some specific categories of use did emerge: to tackle 'pattern' offending and offending-related behaviour that occurs at particular times and places, as an alternative to custody and as an alternative community penalty (see below).

Curfew orders were not seen to raise any age or gender concerns, except that:

- there may be more issues to consider when tagging women, including childcare responsibilities, domestic violence and the visibility of the tag due to dress
- respondents felt curfew orders were particularly useful to separate young offenders from their criminal associates and give them a credible excuse not to spend time with offending peers.

Opinions were divided as to the value of curfew orders for offenders with chaotic lives. Many felt the sentence could add structure and stability to their lives and secure a period of calm in which to work on offending behaviour. Most thought offenders would require additional intervention to help them regain control of their lives. Others believed those with chaotic lives would probably breach a curfew. Respondents were also at odds as to whether to tag substance misusers. A few suggested curfew orders might disrupt habits associated with drug and alcohol use and prompt offenders to access treatment, but the majority agreed this group would be most likely to breach:

> *If someone is completely driven by drink or drugs, maybe they haven't got the capacity to get through a curfew order* (senior probation officer).

Curfew orders were seen as particularly unsuitable for:

- offenders with mental or physical health problems
- very violent offenders
- sex offenders – although a few probation staff felt electronic monitoring of the latter could restrict offending opportunities and offer effective public protection.

All were clear that a curfew order should not be used where there were domestic violence or child protection issues which might be exacerbated by the enforced presence of protagonist or victim. Youth offending team respondents would only curfew young people into a supportive environment, and others were reluctant to tag very isolated individuals.

COMBINING CURFEW ORDERS WITH OTHER COMMUNITY PENALTIES

Under the 1991 Criminal Justice Act, a curfew order with electronic monitoring can be imposed:

- as a stand-alone order
- on top of a pre-existing community sentence
- jointly with another community penalty.

SOME OF THE CATEGORIES CONSIDERED SUITABLE FOR A CURFEW ORDER

To tackle 'pattern' offending and offending-related behaviour that occurs at particular times and places:

- night-time offending such as burglaries, theft of and from cars and driving offences
- public order offences on a Friday or Saturday night or at football matches
- shoplifting
- evening drinking in pubs or substance misuse with peer groups.

As an alternative to custody:

- for young offenders in particular, to avoid a custodial sentence for as long as possible
- where custody was likely but there were extenuating circumstances, e.g. if the offender were employed or held crucial family responsibilities
- to 'add teeth' to other community penalties where offences were serious or with those at high risk of reoffending.

Some respondents believed a longer curfew order could be more constructive than a short prison sentence by giving the opportunity for treatment and rehabilitation within the community.

As an alternative community penalty:

- for persistent offenders where other community options had been exhausted
- for individuals who rejected probation intervention or were unable to undertake community service
- where another community sentence had been breached – although some felt this group would be unlikely to comply with a curfew order
- in response to further offending while under supervision.

A stand-alone curfew order

Respondents generally doubted the value of a fully stand-alone order, but some saw benefits:

- to provide an opportunity to reflect on the consequences of offending:

  It can give people a breathing space, if they are forced to stay in and behave slightly differently for a period of time, then it forces them to look at different ways of operating (senior probation officer)

- to reduce offending and provide protection of the public during curfew hours
- to protect young people who are putting themselves at risk through their offending behaviour
- as a straightforward punishment.

Most were unconvinced that just being tagged could deter future offending unless individuals had found the curfew particularly punitive or stigmatising.

Curfew combined with other community penalties

The majority thought curfew orders could be used most constructively alongside other community penalties to:

- support curfewees, especially young offenders
- build on the consequences of being tagged
- know that a curfewee was not offending during curfew hours
- develop routines and timekeeping skills which can improve attendance on other interventions.

PROPOSING AND IMPOSING THE TAG: THE CURFEW ORDER PROCESS

Take-up of curfew orders has been slow. Nationwide in the first year of the scheme over 4,000 curfew orders were made, averaging about 350 per month across England and Wales, with only very gradual month by month increases towards the end of 2000. This compares with over 4,600 probation orders per month in 1999 across England Wales. Interviews revealed this was because tagging was both rarely proposed by court writers and rarely imposed by sentencers. A number of reasons for this emerged:

- curfew orders were still new and rarely came to mind as a sentencing option for practitioners
- lack of knowledge about curfew orders
- lack of confidence in the sentence
- concerns about the use of curfew orders
- the time required to carry out home visits
- magistrates were reluctant to ask for a curfew order to be considered in pre-sentence reports (see below).

Most report writers did feel it was their responsibility to offer all available alternatives to the court, and that in some cases excluding curfew orders *'would be to deny offenders a legitimate opportunity to be punished in the community rather than in prison'* (senior probation officer). However, both magistrates and report writers said curfew orders would only ever form a minority of proposals and disposals because they saw so few cases where it was relevant, sufficiently serious and practicable:

> *I look on them a little bit as part of the penal delicatessen if you like, as opposed to the staple fare of the criminal justice system* (senior probation officer).

BRINGING BREACHES OF CURFEW ORDERS

Bringing breaches of curfew orders raised a number of issues with respondents.

Some report writers were reluctant to propose curfew orders because they felt the breach process was too lenient. They were surprised when orders had simply been allowed to continue: *'it should mean an alternative to custody'* (probation officer). A number had also found curfew order breach cases took too long to be returned to court. Conversely, others disliked tagging because its enforcement was too severe, particularly for young offenders. They found the breach process excessively rigid, providing 'black and white' evidence but unable to take good progress into account. Electronic monitoring staff described the inconsistency of approach to breaches by different courts as a 'sort of lottery', and believed it had a negative impact on compliance.

REASONS FOR SLOW TAKE-UP OF CURFEW ORDERS

Curfew orders were still new and rarely came to mind as a sentencing option for practitioners

After initial enthusiasm, they had often: 'disappeared, a piece of legislation that just didn't lodge with anybody' (youth offending team officer). Magistrates typically felt curfew orders had become lost among a current plethora of new initiatives.

Lack of knowledge about curfew orders

The majority of respondents had received training and guidance on the sentence but quality varied and some felt ill-equipped to assess for or impose a curfew. Magistrates seemed particularly hard to target. Some had rejected training by the electronic monitoring companies as 'hard sell'. A few still doubted that the technology worked or that the order was properly enforced.

Lack of confidence in the sentence

Respondents were unsure of its value and unconvinced of its effectiveness. Magistrates sometimes said that if curfew orders were of value, they would see more proposals for tagging. For their part, report writers believed local courts were reluctant to tag because their proposals for the sentence had been rejected.

Concerns about the use of curfew orders

Probation and youth offending team staff often felt courts were not targeting curfew hours suitably, which monitoring staff echoed. They also thought breaches of curfew orders were handled inappropriately.

The time required to carry out home visits

Some probation officers claimed they had been 'put off' curfew orders because they lacked the resources to carry out home visits for assessments. In three areas probation service officers were available for this task but were rarely used: report writers said they were reluctant to rely on another's evaluation. Other probation officers felt a home visit was not generally essential and a 'phone call' was usually sufficient. However, electronic monitoring staff were concerned that curfewees and their relatives were often inadequately or mistakenly informed about the tag.

Magistrates were reluctant to ask for a curfew order to be considered in pre-sentence reports

They were concerned this might 'tie the hands' of the next bench, while further adjournment for a curfew assessment delayed the sentencing process. Some felt local arrangements were needed to overcome this impasse.

Courts noted a specific difficulty in bringing breach cases where a curfew order had been given jointly with another community penalty with which the offender was complying. They were unclear whether one or both parts of the order should be revoked and on what basis to re-sentence. Some sentencers had been advised against combining curfew orders with another community option: *'the practical difficulties outweighed the benefit of combined orders'* (lay magistrate). Electronic monitoring contractors were also concerned that curfewees and solicitors were abusing the stipulation that breach cases could only be presented before the end of the sentence. For example, solicitors were attempting to get breach cases adjourned beyond the end of the sentence and curfewees were absconding for the last two or three days of the order.

Both contractors and courts said that the electronic monitoring companies were not always given sufficient details of breach cases by the Crown Prosecution Service and police to inform re-sentencing. Most supervising officers complained that they were not kept informed about breaches of curfew orders made alongside other community penalties, although mutual exchange of information on breaches was working well with one monitoring company.

ADVANTAGES AND DISADVANTAGES OF CURFEW ORDERS

Some respondents noted advantages specific to curfew orders:

- clear evidence of compliance through the electronic monitoring of violations
- the order makes sense to the general public more readily than some other community penalties
- it is a cost-effective sentence, providing a cheaper alternative to prison while offering protection of the public.

A number of respondents could think of no disadvantages to curfew orders at all. Others commented on problems with the sentence:

- the process of changing hours or addresses, requiring a return to court, was thought too inflexible and protracted
- some believed the tag might stigmatise offenders, and there were fears of vigilantism particularly if sex offenders were tagged
- there is no built-in support or relationship element which is central to other community penalties.

CONCLUSIONS

Overall, respondents felt that curfew orders formed an underused penalty with considerable potential which had filled a key niche in the sentencing repertoire. Even those with few or negative experiences of the order thought it should be used more and also used more creatively, particularly in supporting other interventions with offenders.

One key area for improvement was inter-agency communication on curfew orders:

> *I think that curfew orders will flourish in a justice sort of setting if criminal justice staff and sentencers are working together in an informed and positive way to use them appropriately* (senior probation officer).

Different rates in the take-up of curfew orders were often linked to the effectiveness of inter-agency relationships rather than being driven by one particular agency. Respondents wanted more sharing of information, feedback on cases and closer working relationships, particularly at middle-management level. Many favoured a local dedicated liaison officer to provide advice and links. There was particular concern that the electronic monitoring companies lacked crucial information because they were not seen as a partner criminal justice agency.

Those with experience of the trials noted that it takes time to develop relationships locally and for curfew orders to achieve credibility. Others believed that lack of clear guidance initially had made curfew orders a residual sentence – only considered when nothing else is available – and feared they could fall into disrepute if used inappropriately or inconsistently as a consequence. All wanted more evidence of 'what works' when tagging offenders.

Since the interviews took place, more evidence on the effectiveness of curfew orders has been published (see Sugg et al, 2001).

METHODOLOGICAL NOTE

The research involved five areas: Inner London, Kent, Merseyside, West Glamorgan and Greater Manchester – an original trial area. Semi-structured qualitative interviews were carried out with 6–8 probation staff, including senior probation officers, probation officers and where relevant probation service officers, in each area; with 4–8 lay magistrates per area, plus court clerks and district judges in some areas; with 3–4 youth offending team officers per area; and with 6–8 electronic monitoring staff in a range of roles at each of the three companies monitoring curfew orders (GSSC, Securicor Custodial Services and Premier Monitoring Services). They were conducted in autumn/winter 2000–2001.

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Isabel Walter is a former Research Officer, Darren Sugg is a Senior Research Officer and Louise Moore is a Trainee Researcher in the Offenders and Corrections Unit, Home Office Research, Development and Statistics Directorate.

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Electronic monitoring of released prisoners: an evaluation of the Home Detention Curfew scheme

Ed Mortimer

The Home Detention Curfew (HDC) scheme came into operation in January 1999. It allows for the release of eligible prisoners up to 60 days early on an electronically monitored curfew. This paper summarises findings from the evaluation of the first 16 months of the scheme and includes: data on eligibility, releases, completions and recalls; results from a survey of curfewees; the results of a cost-benefit analysis; and findings of a reconviction study.

Key points

- Approximately 4,500 prisoners per month were eligible for early release on Home Detention Curfew. An average of about 1,300 per month were subsequently granted HDC following a risk assessment – a release rate of 30%.
- 5% of curfewees were recalled to prison following a breach of the curfew restrictions.
- Variations in release and recall rates between different types of establishment and different groups of prisoners appear to be related to risk of reconviction and reimprisonment.
- Curfewees and their families were very positive about the scheme, though it was felt that more could be done to prepare them for and support them after release.
- Probation officers supervising curfewees were generally positive about the scheme and felt that it was beneficial to their work.
- Recalled prisoners cited a number of factors leading to their breach of the curfew, many of which could be addressed by better preparation for release, better information for curfewees and their families and awareness of support networks in the community.
- The HDC scheme reduced the prison population by 1,950 places in the first year of operation at a time of significant overcrowding pressures. Over this period, HDC yielded net benefits of £36.7 million.
- The impact of HDC is broadly neutral in terms of reoffending. Including the HDC period and the six months following what would have been their automatic discharge date, those eligible for HDC had very similar reconviction rates to a control group. Differences were not statistically significant.
- The reconviction analysis confirms the effectiveness of the risk assessment in selecting those with low potential for reoffending

The views expressed in these findings are those of the author, not necessarily those of the Home Office (nor do they reflect Government policy)

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Communication Development Unit
Room 201,
Home Office,
50 Queen Anne's Gate,
London SW1H 9AT.

Tel: 020 7273 2084
Fax: 020 7222 0211
publications.rds@homeoffice.gsi.gov.uk

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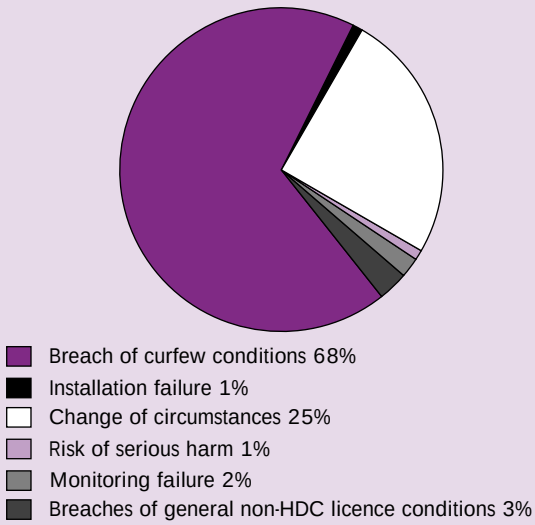
Table 1 Home Detention Curfew eligibility, releases and recalls over the first 16 months of operation

Numbers eligible to be considered for HDC	72,400
Numbers released on HDC	21,400
Release rate (as percentage of those eligible)	30%
Number recalled to prison	1,100
Recall rate (as percentage of those placed on HDC)	5%
Average number on curfew at any one time	2,000

N.B. All figures are rounded to the nearest 100.

Figure 1 Reasons for recall to prison in the first 16 months of HDC



THE USE OF HOME DETENTION CURFEW

Most prisoners sentenced to at least three months but less than four years are eligible for consideration for early release on Home Detention Curfew (HDC). Prison and probation staff carry out an assessment of the suitability of the inmate for HDC, and of the suitability of where he/she proposes to live. Subject to the final decision of the prison governor, the inmate may be released up to 60 days before his/her automatic release date (depending on the length of the original sentence). Of the 72,400 prisoners eligible in the first 16 months of operation, 30% were granted release on an electronically monitored curfew under the HDC scheme (see Table 1).

Over the first 16 months of the scheme, over 21,000 inmates (an average of over 1,300 per month) were released on HDC to spend the last part of their custodial sentence on curfew in the community. At any one time, an average of 1,960 prisoners were on HDC (this was 1,950 for the first 12 months which was used for the cost-benefit analysis).

Of those released in this period, only 5% were recalled to prison following a breakdown of the curfew. The main reasons for recall (see Figure 1) were breach of the curfew conditions (for example, unauthorised absences or deliberate damage to the monitoring equipment – 68% of recalls) or a change of circumstances (25%). Only eight curfewees (less than 1% of all recalls) were returned to custody because they represented a risk of serious harm to the public.

DIFFERENCES IN RELEASE AND RECALL RATES

Release rates varied a great deal between different types of prison and inmate. Differences between types of prisoner were largely explained by the risk of reconviction or reimprisonment for the particular population. Those groups within the prison population that were granted HDC less often than average tended to have higher than average risk scores. This suggests that the risk assessment process was generally working effectively. Variations in release rates by establishments reflected the populations they held but may also result from different approaches to the HDC assessment process taken by Area Managers and Governors. There was less variation in rates of recall to prison and no relationship between this and rates of release by establishments.

Women prisoners were more likely to be released on HDC than men (40% of the eligible population compared with 29% for male inmates). This reflects the different risks of reoffending and reimprisonment. In general, older prisoners were more likely to be granted HDC than younger ones. Black prisoners were marginally more likely than white to be granted HDC (31% compared with 29%), but South Asian (51%) and Chinese and Other (39%) inmates were much more likely to be released onto the scheme. Again, these rates were linked to actuarial risk assessments and reflected similar patterns found in decisions on parole.

Analysis of the release rates by offence type also highlights the importance of risk assessment in these decisions. Offenders convicted of offences which have higher reconviction rates, such as burglary and theft and handling, have lower HDC release rates. Those convicted of offences with lower reconviction rates (such as drugs offences or fraud and forgery) have higher release rates.

The rate of recall of curfewees to prison (at around 5%) was fairly constant over the first 16 months of the scheme. There was no clear link between prison release rates and recall rates – those establishments that released proportionately more eligible inmates onto HDC were not associated with higher levels of recall.

SURVEY OF CURFEWEES, FAMILY MEMBERS AND SUPERVISING PROBATION OFFICERS

A survey of curfewees, family members and supervising probation officers confirmed that the scheme has had some success in achieving its aim of easing the transition from custody into the community. Respondents did, however, identify some areas where the scheme might be improved.

Curfewees were very positive about the scheme (only 2% said they would have preferred to spend the time in prison rather than on HDC). 37% of curfewees interviewed said that the prospect of being granted HDC had influenced their behaviour in prison (e.g. attending courses, taking on work). Other household members were very positive about the scheme and probation officers responsible for supervising curfewees on non-HDC licences (for example, automatic conditional release licences) also felt that HDC was helpful to their work in general.

Most curfewees interviewed (83%) recalled being given something in writing with the rules of the scheme, though only 29% had seen the video about the scheme while in prison. Almost half (49%) felt quite poorly, or very poorly informed about the scheme prior to release.

The main advantages of the scheme cited by curfewees were being out of prison (82%) and meeting up with their families (63%). Other household members said that the main advantages were having the curfewee home again (72%) and the end of prison visits (69%). Few disadvantages were mentioned by either group. However, unsurprisingly, 41% of curfewees cited the curfew restrictions as a disadvantage.

At the time of interview, 28% of curfewees were in full-time work and a further 6% in part-time work. A further 36% were seeking work, and this group was most likely to cite advantages (such as developing a routine and enabling them to look for work) and also more likely to cite disadvantages (such as the difficulty of finding a job because of the curfew restrictions and the inconvenience of the curfew hours for other household members).

61% of curfewees said they had experienced a curfew violation (an infringement of the curfew rules – if these are sufficiently serious, whether in isolation or in conjunction with other violations, then the curfewee may be breached and recalled to prison). Nearly two-thirds of these claimed that the violation was down to equipment failure rather than any fault of their own, though Home Office and contractor records did not indicate any significant problems with the equipment. Monitoring staff were praised by curfewees and household members as being polite, helpful and professional. This was particularly so at the installation but also when dealing with violations.

RECALLED PRISONERS

Qualitative interviews were carried out with a small sub-sample of recalled prisoners to find out more about the reasons behind their breaches of the curfew conditions. There were four main types of factor involved: equipment problems, psychological issues, housing and domestic issues and work/lifestyle.

Equipment

Some of those interviewed claimed that problems with the monitoring equipment lay behind their recall.

Psychological issues

Motivation was a key issue, with a number of those interviewed appearing to have been unable to exert enough self-discipline to keep to the curfew. Some had experienced problems with returning to drug use or to the life of crime that they had known prior to prison. There were also problems for some with anger management. Arguments with other members of the household or with the monitoring staff had led (directly or indirectly) to recall.

Housing and domestic issues

Problems with unsuitable housing or unstable tenure were a factor in some recalls to prison. Relationship problems were also often associated with either a loss of accommodation or curfew violations. Family support was an important factor in a curfewee's ability to cope with the curfew. Isolation and boredom were particular problems for those living by themselves.

Work and lifestyle issues

For curfewees in work, the need to be available to work shifts, long hours or to do overtime, especially at short notice, could conflict with the curfew requirements. Some of the recalled prisoners interviewed had, when they were released on the curfew, returned to the hedonistic lifestyle they had enjoyed before prison with its largely nocturnal setting of pubs and clubs. For these offenders, disregarding the requirements of the curfew inevitably led to recall to prison. The impact of drug and alcohol use on the ability to keep to curfew times or other licence conditions was also a factor in some recalls.

Most of the recalled curfewees interviewed said that the lure of 'freedom' on HDC was very strong and made it less likely that those being assessed would be realistic about the chances of their completing the curfew period. This, coupled with the high numbers who felt poorly informed, suggests that more could be done to inform and prepare prisoners both before and during the assessment process. They would then understand some of the pressures that they could face and have a chance to think about how to cope with them.

CONTACT WITH THE PROBATION SERVICE

Three-quarters of those curfewees interviewed had been in contact with the probation service since release as part of their post-release supervision. Of these, two-thirds described their meetings as 'generally helpful'. Probation officers who supervised these curfewees were also interviewed. 23% said that HDC helped their work with the specific offender a lot, 20% that it helped their work a little and 53% that it made no difference. However, in *general* terms, 76% of probation officers interviewed felt that HDC helped the work of the service.

COST-BENEFIT ANALYSIS OF HDC

This analysis involved identifying the main costs in each of the main HDC processes: risk assessment; contractor operations; and recalls. This included estimating the actual resource cost to prisons and probation services of carrying out the assessments and to the Sentence Enforcement Unit in making decisions on recalls.

The average period spent on HDC was 45 days, at a cost of approximately £1,300 per curfew (equivalent to £880 per month). The scheme reduced the prison population by 1,950 places during the first 12 months of operation (the average number of curfewees at any one time) and will continue to save places (see Table 2).

The biggest costs by far were payments made to the electronic monitoring contractors, while the savings were mainly driven by the reduction in prison places. The total estimated net benefit of the Home Detention Curfew scheme over the first year was £36.7 million (this excludes start-up costs for all but the electronic monitoring contractors and changes in level of offending). This does not represent a reduction of £36.7 million in Prison Service cash flows as the Service still has to run the existing establishments but at a time when the prison population was rising, it helped reduce the need for capital expenditure on new prisons.

Table 2 Costs and benefits of Home Detention Curfew over the first 12 months

Agency	Estimated cost	Estimated benefit
Prison staff costs	£3.2m	
Probation service costs	£2.3m	
Contractor costs (actual charges made ex. VAT)	£21.0m	
Sentence Enforcement Unit (recalls)	£0.15m	
Prison resource savings		£63.4m
Net benefits		£36.7m
Reduction in prison places		1,950

Table 3 Reconviction rates for offences committed up to six months after normal discharge date (not including offences committed during the HDC period), showing numbers eligible for follow-up at this point

Follow-up period	Programme group: granted HDC	Programme group: not granted HDC	**Whole programme group (weighted)**	**Control group**
3 months	6.5%	25.4%	**19.3%**	**19.0%**
	(1,488)	(5,185)	**(6,673)**	**(6,828)**
6 months	9.3%	40.5%	**30.5%**	**30.0%**
	(118)	(558)	**(676)**	**(6,723)**

ANALYSIS OF REOFFENDING

A key concern has been whether HDC has had any impact on reconvictions. A reconviction analysis was carried out on a sample of prisoners who were eligible for discharge on HDC in May and June 1999. This programme group was compared with a control group of similar discharged prisoners taken from October and November 1998 who would have been eligible for HDC had it been in force then. Data on short-term reconvictions up to six months after the automatic release date (the date on which they would have been discharged anyway, even if they had been refused HDC) were analysed for both groups using the Police National Computer.

2.1% of curfewees were reconvicted for offences committed while subject to HDC. In the six months after the curfew period or discharge date, offenders eligible for HDC had very similar reconviction rates to the control group – 30.5% and 30% respectively (see Table 3).

When convictions for offences committed during the HDC period are taken into account, the difference between the two groups is slightly greater – 30.8% for the programme group and 30.0% for the control group at the six-month follow-up (these differences are not statistically significant). This suggests that the impact of HDC is broadly neutral in terms of reoffending.

The analysis provides further evidence that the risk assessment process is effective: of those granted HDC, the reconviction rate for the six-month period after their automatic release date was 9.3%, compared with a rate of 40.5% of those who were refused HDC.

CONCLUSIONS

In general, Home Detention Curfew appears to be operating relatively smoothly and has gone some of the way to achieving its central aim of easing the transition from custody to the community. Furthermore, this has been achieved while realising significant cost savings and with little adverse impact on reoffending.

For a more detailed report, see *Electronic monitoring of released prisoners: an evaluation of Home Detention Curfew scheme* by Kath Dodgson, Philippa Goodwin, Philip Howard, Siân Llewellyn-Thomas, Ed Mortimer, Neil Russell and Mark Weiner. Home Office Research Study. London: Home Office.

Copies are available from the Communications & Development Unit.

These Findings were written by Ed Mortimer who is a Senior Research Officer in the Offenders and Corrections Unit, Home Office Research, Development and Statistics Directorate. It summarises the full report by Kath Dodgson et al. (see above).

Home Office
BUILDING A SAFE, JUST AND TOLERANT SOCIETY

Findings 141

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Communication Development Unit
Room 201,
Home Office,
50 Queen Anne's Gate,
London SW1H 9AT.

Tel: 020 7273 2084
Fax: 020 7222 0211
publications.rds@homeoffice.gsi.gov.uk

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Electronic monitoring and offending behaviour – reconviction results for the second year of trials of curfew orders

Darren Sugg, Louise Moore and Philip Howard

This findings reports on reconvictions for offenders who received curfew orders with electronic monitoring during the second year of trials in Norfolk, Greater Manchester and Reading between July 1996 and June 1997. Reconviction rates were examined for 261 out of the 375 offenders originally sentenced.

Key points

- Over 80% of offenders completed their curfew orders successfully, which on average lasted for around three or four months. More than half the sample also served other community sentences alongside the curfew order.
- Nearly 73% of offenders were reconvicted for a further offence within two years of being sentenced. Theft and violence were the most common categories for which individuals were reconvicted. The reconviction rate was no different to that of a comparison group of offenders who received community penalties other than curfew orders during the same period.
- Offenders sentenced to curfew orders with electronic monitoring tended to be male, in their mid-20s and had been offending for around eight years. Over 40% had previous experience of custody and over 70% of other community sentences.
- Very few offenders who completed curfew orders in England and Wales during the trials breached other community penalties that ran alongside, although this finding is not statistically significant. Canadian research shows that electronic monitoring can be effective in helping to ensure compliance with other, more rehabilitative, community penalties.

Curfew orders with electronic monitoring began in July 1995 in three areas (Manchester, Reading and Norfolk). Research on the first two years of the trials showed the new order was being used for offenders for whom custody was a serious option. Nonetheless, over 80% of offenders completed their orders successfully (Mair and Mortimer, 1996; Mortimer and May, 1997).

The key test of the rehabilitative potential of any disposal is its impact on offending behaviour and can be measured by the proportion of offenders reconvicted. This study examines reconvictions after two years for offenders sentenced to curfew orders in the second year of the trial, July 1996 to June 1997. Analysis of reconviction data for those sentenced in the first year of the trials were inconclusive because of the small sample. Rather than combine findings for the first two years, this report concentrates on those curfewed in the second year (although reconviction results for those offenders sentenced in Year One are discussed briefly).

The views expressed in these findings are those of the authors, not necessarily those of the Home Office (nor do they reflect Government policy)

The updated Offender Group Reconviction Scale (OGRS2)

This is a Home Office algorithm that predicts the probability of an offender being reconvicted on the basis of age, criminal history, including breach, and experience of youth custody (Taylor, 1999).

When any new community penalty is introduced there is a 'bedding in' period, when sentencers and others in the criminal justice system become familiarised with the disposal. In the initial stages take-up is likely to be slow and offenders sentenced early on may not be 'typical' of offenders tagged when sentencers are more familiar with the new option.

CHARACTERISTICS OF THOSE CURFEWED

Of the 375 offenders tagged during the second year, 269 (72%) were traced on the Offenders Index (OI), a Home Office database containing criminal histories. The extent of non-matching on the OI is high, but there is no evidence that this has created any systematic bias. Eight had had their sentence quashed on appeal or were remanded in custody, leaving a sample of 261.

Offenders tended to be in their mid- to late-20s when curfewed and had, on average, been offending for eight years with an average of eight previous convictions. The typical offender was male (91%) with an extensive criminal history.

On average, the sample can be considered to be of medium-high risk of reconviction. Using OGRS2 (the updated Offender Group Reconviction Scale, see above), it would be expected that two-thirds of the sample (67%) would be reconvicted within two years. 40% of the sample (105 offenders) had a greater than 80% chance of being reconvicted. Significant numbers of offenders had previous experience of custody (42%) and other community penalties (72%).

Table 1 Curfewees showing current offence which resulted in the curfew order compared with previous offences

	Current offence		Previous offence	
	No.	%	No.	%
Violence against the person	34	13	127	49
Sex offences	2	<1	12	5
Burglary	45	17	144	55
Theft/handling (including auto-theft)	100	38	193	74
Fraud and forgery	5	2	58	22
Drug offences	7	3	57	22
Driving offences	49	19	45	17
Criminal damage	6	2	108	41
All other	13	5	156	60
Total*	261	100	–	–

Notes: * Total for current offences may not sum to 100% due to rounding. Total for previous offences will round to more than 100% as offenders could have committed more than one previous offence.

The most common offences for which offenders were curfewed (see Table 1) were theft/handing (38%), driving offences (19%) and burglary (17%). However, most had previous convictions for a range of other offences, including violence against the person (49%) and theft (74%).

IMPACT ON OFFENDING

Of the 261 offenders traced, 190 (72.8%) were reconvicted for a further offence within two years. Of these, 60 offenders (23%) were reconvicted on one occasion only, 111 (42%) between two and five separate occasions, and 19 (7%) on more than five occasions. The majority of those reconvicted, 166, had reoffended within one year (87%).

The most common offences leading to reconviction were theft (102, 39%), violence (76, 29%), burglary (46, 18%) and criminal damage (37, 14%). Of the 190 offenders who were reconvicted, a third (64) received custody, probably reflecting the failure of offenders to respond to a further community penalty. It does not necessarily reflect the seriousness of any new offences.

It is not possible to detect any significant differences by gender since data is only available for 23 women, 18 of whom were reconvicted within two years. Reliable data on ethnicity is not available.

Given the criminal histories of those in the sample this high level of reconviction is not surprising. Table 2 compares the differences between actual and predicted reconviction rates for the sample with a matched comparison group of offenders sentenced to combination and community service orders in the three pilot areas in April 1996. These orders have been chosen for the comparison group because previous research has indicated that, had curfew orders not been available, offenders would have received community sentences seen by sentencers as an alternative to custody (Mortimer and May, 1997).

Table 2 also shows the reconviction results for offenders sentenced during the first year of the trials. On average, they are slightly less at risk of being reconvicted than those sentenced in the second year (59% compared with 67%).

Overall, there is little difference between the curfewed group and the comparison group, with 73% and 74% of offenders reconvicted for the two groups. This suggests that curfew orders have had no impact on reoffending, compared to the other community penalties that may have been imposed. This applies equally to all three areas. The marginally higher reconviction rate in Manchester is explained by the slightly higher risk scores of offenders in that area, compared with Norfolk and Berkshire.

Actual reconviction is higher than predicted for both groups (by around 6–7% for Year Two). The most likely explanation is not that tagging has 'made offenders worse', rather that OGRS2 is a national predictor, and does not take into account local factors such as police clear-up rates (the under-prediction is also apparent for the comparison group).

Table 2 Actual versus predicted 2-year reconviction rates, by area

	Predicted reconviction		Actual reconviction		Difference	
	No.	%	No.	%	No.	%
Berkshire: n=26						
Curfew order group	17	67	18	69	1	+2
Comparison group	17	67	20	77	3	+10
Greater Manchester: n=174						
Curfew order group	118	68	128	74	10	+6
Comparison group	118	68	129	74	11	+6
Norfolk: n=61						
Curfew order group	39	63	44	72	5	+9
Comparison group	39	63	43	70	4	+7
All areas: n=261						
Curfew order group	174	67	190	73	16	+6
Comparison group	174	67	192	74	18	+7
Year One* results n=76						
All areas	45	59	53	70	8	+11
Comparison group	148**	60	168	68	20	+8

Notes: * Year One results are not disaggregated by area due to very small numbers. Seven of the original 83 offenders could not be traced on the OI, or were remanded in custody or had their sentences quashed. ** A slightly different procedure was used to derive the comparison group for the first year.

IMPACT OF OTHER COMMUNITY PENALTIES

The impact of electronic monitoring on offending may differ if the offender is serving an additional community penalty at the time the curfew order is imposed. 160 offenders also had other community penalties imposed either by the magistrate or judge passing sentence or because a pre-existing community penalty was allowed to continue. In most cases the community penalty was a straight probation order. When the two-year reconviction results for 101 offenders on stand-alone curfew orders and the 160 offenders on joint orders are compared, offenders serving an additional community penalty alongside the curfew order are at a higher risk of being reconvicted than those on stand-alone orders – 70% compared with about 62%. Those on joint orders are likely to have a greater criminal history which in turn implies a higher risk level and therefore higher reconviction rates for offenders on joint orders. For both stand-alone orders and joint orders offenders were reconvicted at rates similar to their respective comparison groups.

SUCCESSFUL COMPLETION

For community penalties to have any rehabilitative potential it is important that offenders complete their orders successfully. Table 3 compares actual and predicted reconviction rates for 211 offenders who completed their orders compared with 50 offenders who failed to do so.

For the 211 offenders who completed their orders successfully, there is some evidence of reduced rates of reconviction compared with a matched comparison group (69% compared with 72%). However, the difference is not statistically significant and, again, the actual reconviction rates are higher than the predicted rates.

Analysis of those curfewed in Year One indicated that very high-risk offenders are less likely to complete their orders. This is borne out by the Year Two findings. The average likelihood of reconviction for those who breached was 75%, and they were reconvicted at an even higher rate.

Table 3 Joint or single orders comparing actual and predicted rates of reconviction

Completed/successful	Predicted reconviction		Actual reconviction		Difference	
	No.	%	No.	%	No.	%
Completed n = 211						
Curfew	137	65	145	69	8	+4
Comparison	137	65	152	72	15	+7
Breached n = 50						
Curfew	37	75	45	90	8	+15
Comparison	37	75	40	80	3	+5

Notes: it is not known whether offenders in the comparison groups completed their community penalties or were breached. The matching with the curfew sample was carried out on the basis of risk, as measured by OGRS2, at the time of sentence.

Table 4 Risk levels, completion and reconviction

Risk band	Average risk of reconviction within 2 years	Successful completion		Two-year reconviction rate	
	%	No.	%	No.	%
Low–medium n=64	30.5	57	89	25	39
Medium–high n=92	68	75	82	71	77
High n=105	88	79	75	94	90

However, there is no clear relationship between completing a curfew order successfully and a subsequent reduction in offending behaviour. The sample was divided into three groups according to three different 'risk-bands': 0–50% (low–medium); 51–80% (medium–high); over 80% (high).

Although, as shown in Table 4, the proportion completing orders does decrease with increased risk, three-quarters of offenders in the highest risk category still completed their orders successfully. Reconviction rates rise steadily, broadly in line with the predicted scores for each group.

COMPLIANCE WITH OTHER COMMUNITY SENTENCES

Research from Canada has indicated that electronic monitoring can aid effective rehabilitation by improving compliance with more rehabilitative community interventions, such as cognitive-behavioural programmes (Bonta et al., 1999). Whether this benefit is evident in this country can be seen by looking at the rate at which offenders who successfully complete the curfew order also complete any probation or community service orders running parallel, and comparing this figure with the breach rates for offenders in the comparison group.

Of the 160 offenders on curfew orders alongside other community penalties during the second year, 124 successfully completed the curfew element. Only five (4%) of these offenders breached other community sentences during the period they were curfewed. Although impressive, this is no different from the (short-term) breach rate for the comparison group. At present, therefore, there is insufficient evidence to say this low breach rate would not have occurred in any case (i.e., in the absence of the curfew orders).

INCAPACITATION AND DETERRENCE

This report has focussed on the rehabilitative potential of electronic monitoring. It has not considered any possible deterrent effect of the order or its punitive nature, that is, as a punishment in its own right. Nor has the study been able to explore fully the incapacitation or containment effects – the benefits to society of an offender not offending for up to 12 hours a day for up to six months, irrespective of their future behaviour once the order has been completed.

DISCUSSION

Higher risk offenders, such as those curfewed during the first two years of the trials, are likely to exhibit a number of problems directly related to offending, e.g., drug and alcohol abuse, unemployment and antisocial attitudes (Vennard et al., 1997). For any intervention to challenge successfully offender behaviour it must tackle these factors in a structured way. This is not to say electronic monitoring has no role in this. As noted above, recent Canadian research showed treatment programmes using cognitive-behavioural methods – which tackle antisocial attitudes – alongside electronic monitoring were effective in reducing offending. The role of electronic monitoring was to increase attendance on these rehabilitative programmes.

The Criminal Justice and Court Services Act (2000) contains provisions to make compliance with an electronically monitored curfew an explicit condition of a probation order. This may have the effect of integrating more fully the electronic monitoring and probation elements of an offender's sentence.

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Darren Sugg, Louise Moore and Philip Howard are in the Offenders and Corrections Unit, Home Office, Research, Development and Statistics Directorate.

Integration of electronics within probation supervision in the Netherlands

Product Development and Research

Egmond aan Zee
11 mei 2007
Jan Verhoeff

Reclassering Nederland

Introduction speaker:

- **Jan Verhoeff**

  Policy advisor Reclassering Nederland

  Noord Nederland District

  Project secretary Electronic Monitoring

Programme

- Integration of electronics within probation supervision

  - Why?
  - How?
  - New Techniques
  - Results
  - Next steps
  - Cooperation

Why integrate electronics? -1-

Professionalisation Reclassering Nederland:

- Development of assessment tool RISc/Quick Scan (based on OASYS)

- Development of effective interventions regarding behaviour on the basis of “What Works” , evidence based and scientifically tested

- Reinforcement of the monitoring element within probation supervision through electronic means
  - Legal modalities
  - Control of effective interventions
  - New techniques

Why integrate electronics? -3-

- **Standard until 2005**:
  Radio Frequency Identification (RFID =monitoring with stationary tagging) emphasis on punitive character: curfew

- **At present**:
  Since 1995 using:
  -RFID (stationary)

  Research on:
  -Global Positioning System (GPS= Dynamic)
  -Voiceverification
  -Remote (on line) Alcohol Monitoring

How?

Results product conference:

- Business innovation process:
  - Product Creation Process (PCP)
  - Product Introduction Process (PIP)

- Scientific formulation of research questions:
  - Is it possible?
  - Is it allowed?
  - Does it work?

How?

Product Creation Process (PCP) – 2 years

Phase 1:

- Prototyping
- Test with volunteers
- Adjustment of draft

Phase 2:

- Test with defendants / offenders
- Simplification of draft

How?

Product Implementation Process (PIP) – 1 year

- Stakeholders analysis
- Involvement of stakeholders in development
- Product-information to all involved actors
- National implementation of ready for use product

How?

Scientific Research:

- Is it possible? - feasibility test
- Is it allowed? - does judicial framework offer sufficient possibilities?
- Does it work? - is the objective ‘Reduction of Recidivism’ attained?

Scientific support of the research:

Rijks Universiteit Groningen

New techniques

Global Positioning System GPS

- Monitoring the location of an individual using satellites in combination with GSM (mobile phone technology)

3 Types of tracking:

1. Passive or Retrospective tracking

2. Active Tracking

3. Hybrid Tracking

New techniques

Global Positioning System GPS

1. **Passive or Retrospective tracking**

   The equipment monitors details of the subject's movements in real time, but the information is used retrospectively, and it therefore shows the trail of the subject

New techniques

Global Positioning System GPS

2. Active Tracking

The equipment monitors details of the subject's movements in real time, and the Control Centre follows the movements permanent on screen down to a level of detail which shows the operator which direction a person is moving

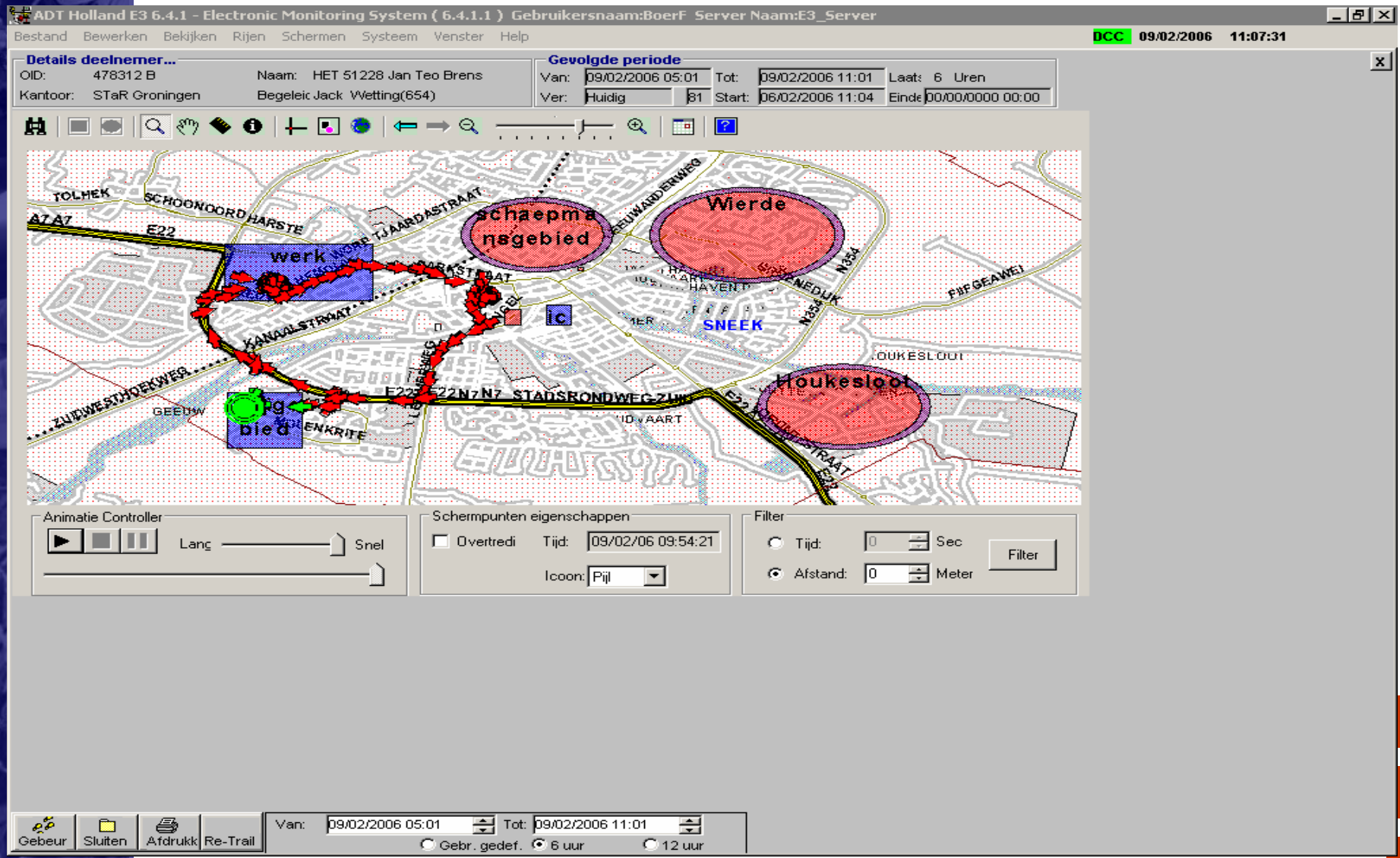
New techniques

Global Positioning System GPS

3. **Hybrid Tracking**

When the subject breaches the tracking conditions or requirements – for example by entering an exclusion zone, the tracking device switches from the passive mode to the active mode and transmits a real-time alert to the Control Centre

Example Trail



New techniques

Voiceverification

- Recording a voiceprofile with a computer and a verification of the voiceprofile by telephone

- **2 Types:**
  1. To exclude a subject from a certain environment by random verification during the exclusion time

  2. To check the presence of af subject on a certain place at a pre-scheduled time: the subject calls the voiceverification-computer himself

New techniques

Remote (on line) Alcohol control

- With an electronic breathalizer and webcam an online check of the use of alcohol

Results? - 2 -

Scientific results of phase 1(GPS-research):

- The target groups:
  - *domestic-violence and other violent offenders (restricted to a particular area and/or time)*
  - *Stalking*
  - *Prolific offenders*
  - *Juvenile offenders*
- Sufficient legal possibilities if emphasized on *monitoring* the conditions and not on *deprivation* of liberty

- GPS monitoring leads to less violations of the conditions

Results? - 3 -

- Scientific research phase 1(GPS research)
  - Control combined with effective interventions regarding behaviour is most successful
  - Individuals with a very high risk are not suited for application of GPS:
    - Active monitoring does not replace surveillance
    - Active monitoring is time consuming and expensive
    - *The connection between monitoring and effective interventions legitimises the involvement of the probation service*

Results? - 5 -

- Ideas for the future (1)
  1. Use of electronic tools to check whether conditions are being met
  2. *Very* high-risk clients are not eligible for use
  3. Work with standardized implementation practice with limited number of levels of control (KISS)
  4. Risk level (RISc/QS) leads to standard level of control (low-medium-high)
  5. Relate the frequency of the face to face contacts to the counselling part of supervision within the framework of the level of control
  6. Integrated approach of the use of the different techniques

Results?

- Standards

-	Low risk:	Curfew: 23.00 - 06.00 Duty to report presence **Voiceverification**
-	Medium risk	Curfew 21.00 – 06.00 Gather info about whereabouts **GPS: Retrospective**
-	High risk	Curfew 19.00 – 07.00 In- or/and exclusion zones **GPS: hybride**
-	Very high risk:	None

Next steps

- Phase 2 research GPS:
  Increase number of participants up to 50
- Phase 2 research Voice verification
  Increase number of participants up to 50
- Test with Breathalyzer, to check alcohol consumption
- Development of protocols for method of working and cooperation with provider (security service) and tasksupplier

ALWAYS THERE

Erik van Gompel

Senior Account Manager
Mob: +31(0)6 2269 3329
evangompel@tycoint.com

ADT Security Services B.V.
Vlierbaan 6-12 / Postbus 285
2900 AG Capelle aan den IJssel
Nederland

Tel.: +31(0)10 258 4885
Fax.: +31(0)10 458 8801
www.adt-security.nl

tyco Fire & Security

ADT

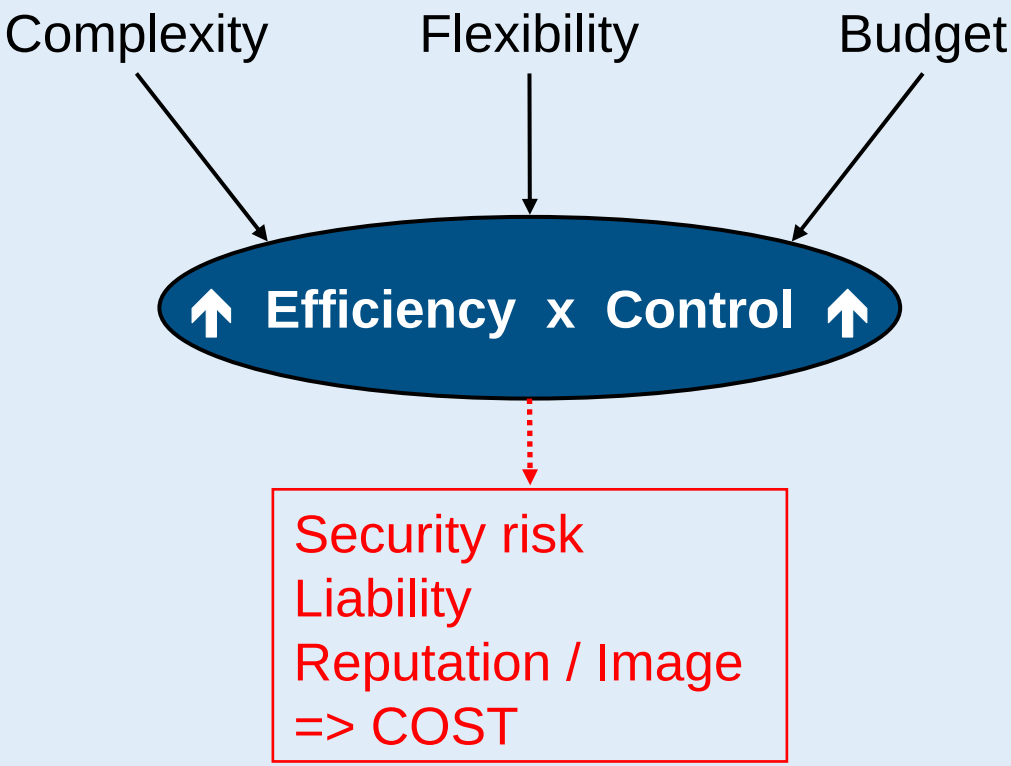
Introduction

- ADT Security Services B.V., Netherlands
- Part of Tyco
- >10 years active in Dutch market as EM solution provider
- >40 years active in Dutch market with security solutions

tyco Fire & Security

ADT

Challenge


Complexity
Flexibility
Budget
Efficiency x Control
Security risk
Liability
Reputation / Image
=> COST

Measures

- Signalling
- Detective

EM is ...

- … primarily a checking instrument
- ... part of a total solution
- ... proportional to the risk imposed by the target group
- ... an investment providing return
- ... a momentary solution matching momentary needs; continuous re-evaluation on both aspects is required

Environmental factors

- Complexity
  - Many “interfaces” between EM and organisation
  - ➢ Deep integration of EM solutions in organisation
    - ➢ Protocols at all interface levels
  - Reduction of complexity leads to higher level of quality, efficiency and security
- Flexibility
  - Changing variety in target groups with different risk profiles
  - ➢ Modular approach to address different risk profiles
    - ➢ Add new technological solution
  - ➢ Supporting knowledge & experience
  - Short lead time for implementation of new EM schemes
- Budget
  - Reduction operational cost
  - ➢ World class solutions
  - ➢ Modular solutions
    - ➢ growth path, cost control, protection of investment
  - ➢ Integrated security solutions

ADT's "Electronic Monitoring" benefits

- Complexity
  - Reduction of complexity, through intensive partnerships, leads to higher level of quality, efficiency and security
- Flexibility
  - Knowledge and innovative solutions enable short lead times for implementation of new EM schemes
- Budget
  - Modular integrated solutions allow easy upgrade / expansion of EM functionality thus minimizing cost and risk while protecting previous investments
  - Various financial schemes

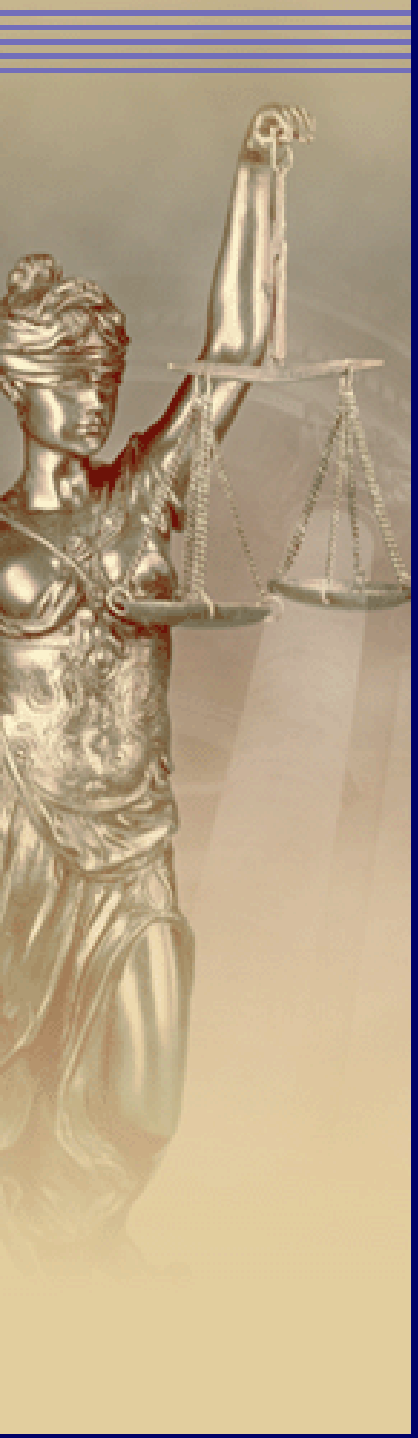
ADT mission

- Mission
  - To improve security, continuity and efficiency for our customers through Integrated Security Solutions.
- Solutions
  - Products
    - Multi-vendor
  - Services
    - Consultancy, design, implementation, maintenance & support, monitoring (ARC)

ADT-NL >40 years of knowledge and experience...

- Culture & legislation
  - Closely involved in society through contacts with (semi-) governmental organisations
- Organisation
  - Long term relationship
  - Experienced in aligning company processes with security solutions
- Technology
  - Experienced in defining and providing integrated solutions matching customer's specific requirements
  - Focal communication point for identifying (future) needs and translation into new solutions


ALWAYS THERE !



Poland

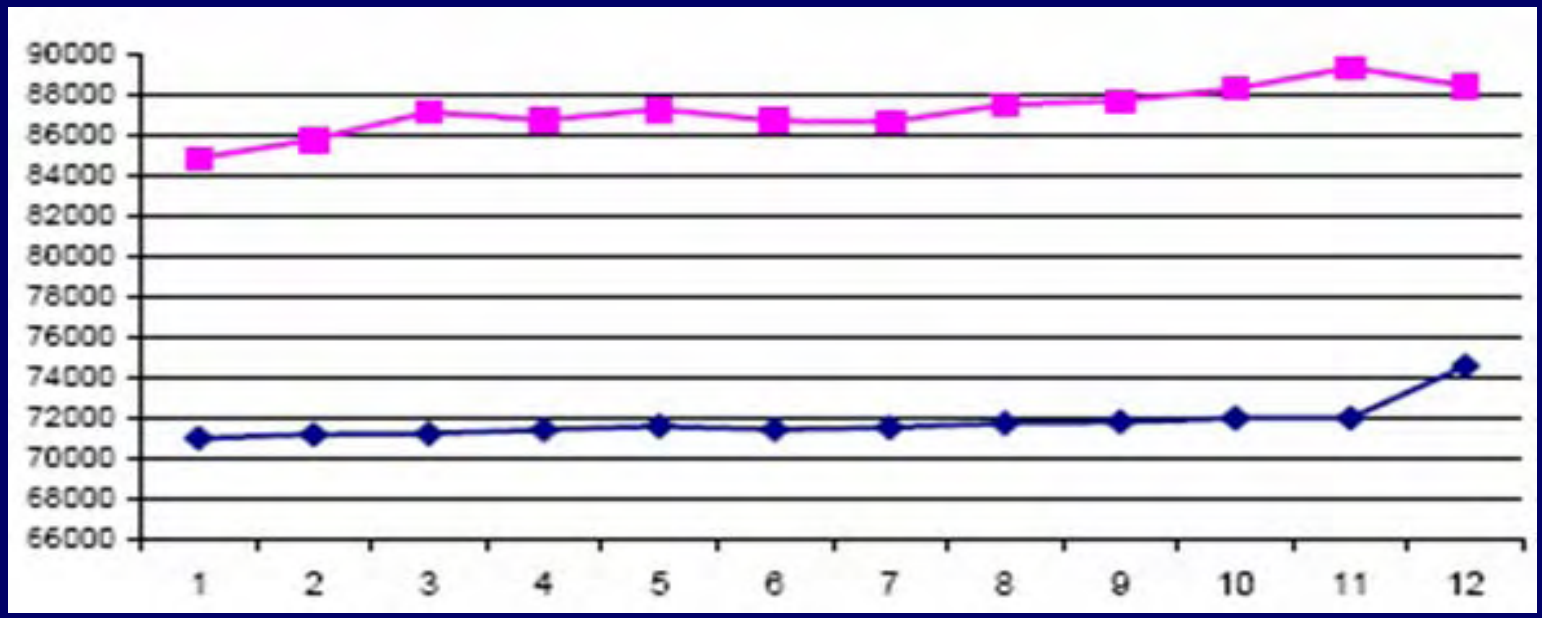
- on the way to electronic monitoring of offenders

Egmont aan Zee

May 11th, 2007

Prison population in Poland*

- prison population ≈ **89000**
- prison capacity ≈ **70 000**



*** as of 2006**

Prisons in Poland

- 85 prisons
- Mostly built before 1945

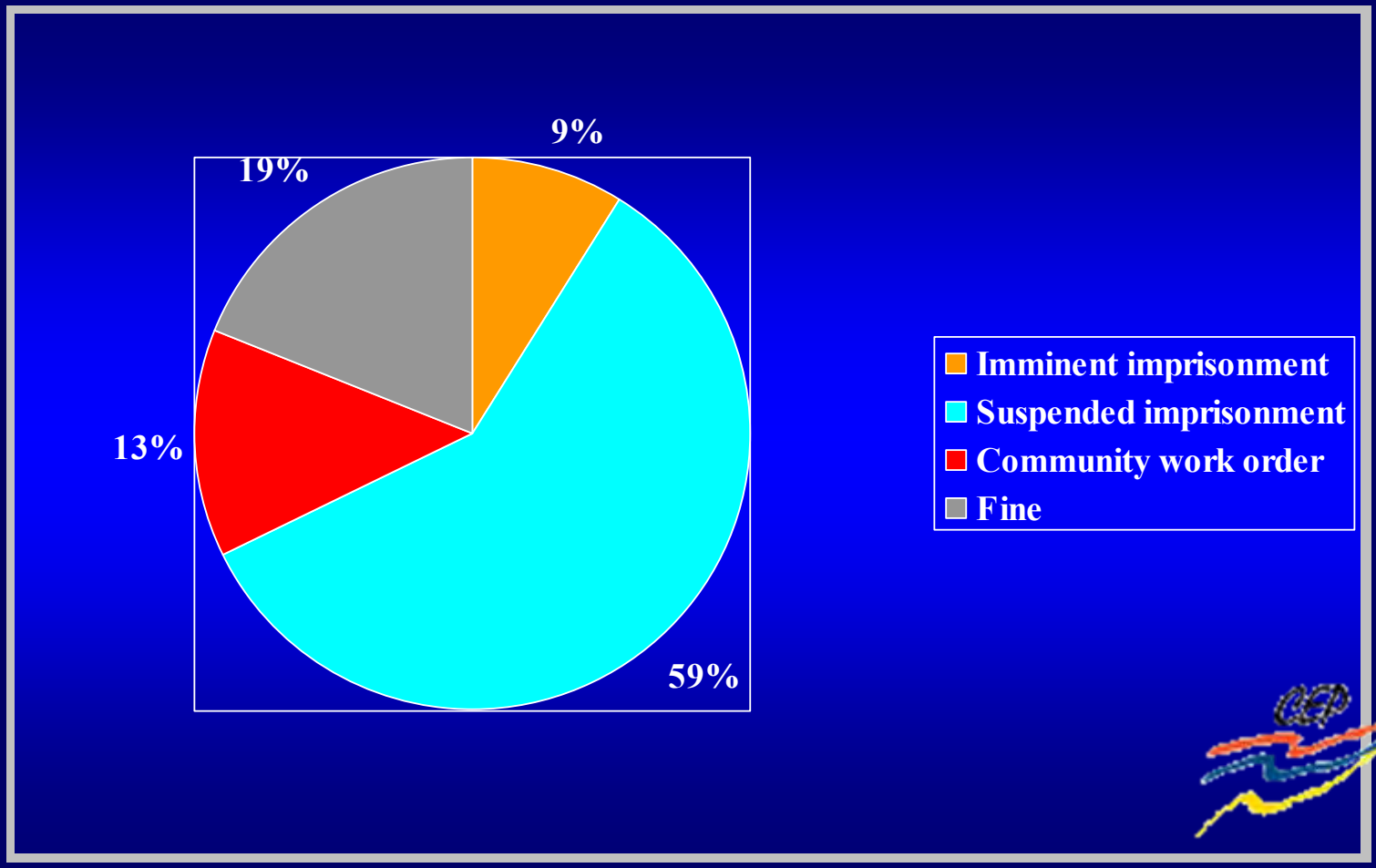
The World Prison Population List (fifth edition)

Prison population rate per 100 K of national population

England & Wales	141
France	93
Belgium	89
Sweden	73
Estonia	361
Latvia	352
Lithuania	256
Poland	218
Czech Republic	170

Sanctions imposed by District Courts

January-June 2005, total: 249 532



The Response

- Governmental programme of gaining 17,000 beds in the facilities of the prison system in the period 2006-2009
- Enforcement of imprisonment sentences outside a penitentiary facility by implementation of electronic monitoring programme

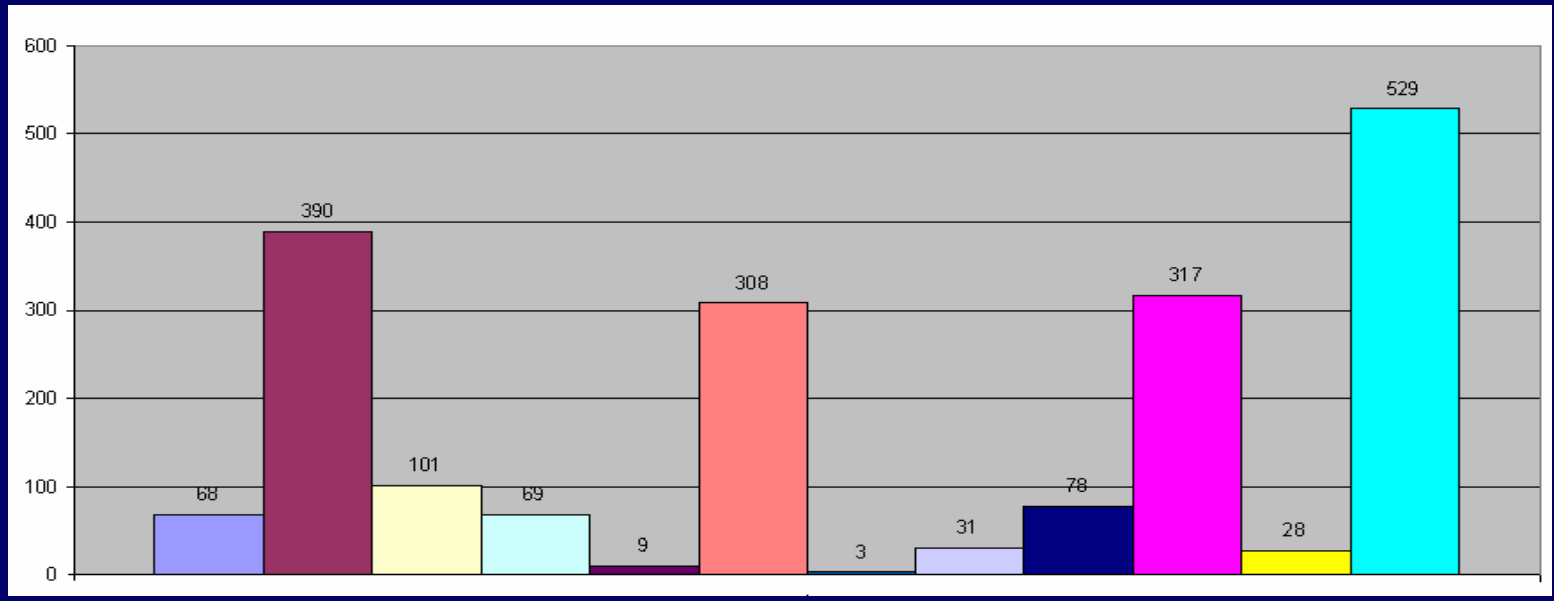
Preparatory work

- Comparative studies of legal provisions
- Study visits to EM –leading countries
- Consultations with experts (EM, correction system)
- Dissemination: seminars and conferences
- Legal proffesionals' attitude survey

The attitudes of legal professionals towards electronic monitoring

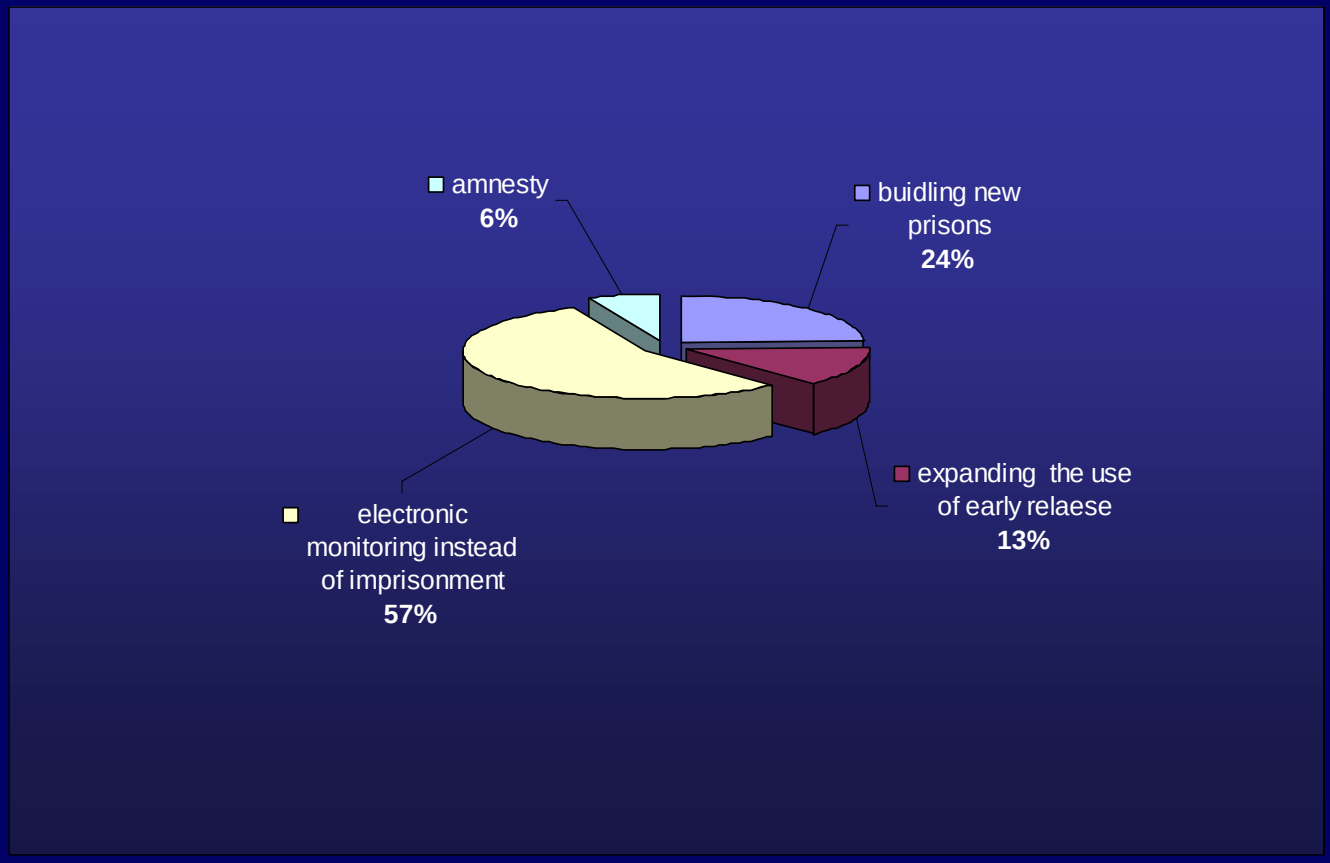
- More than 3200 questionaires distributed
- Around 2000 respondents
- Different concepts of EM application presented in questions

The survey: participants

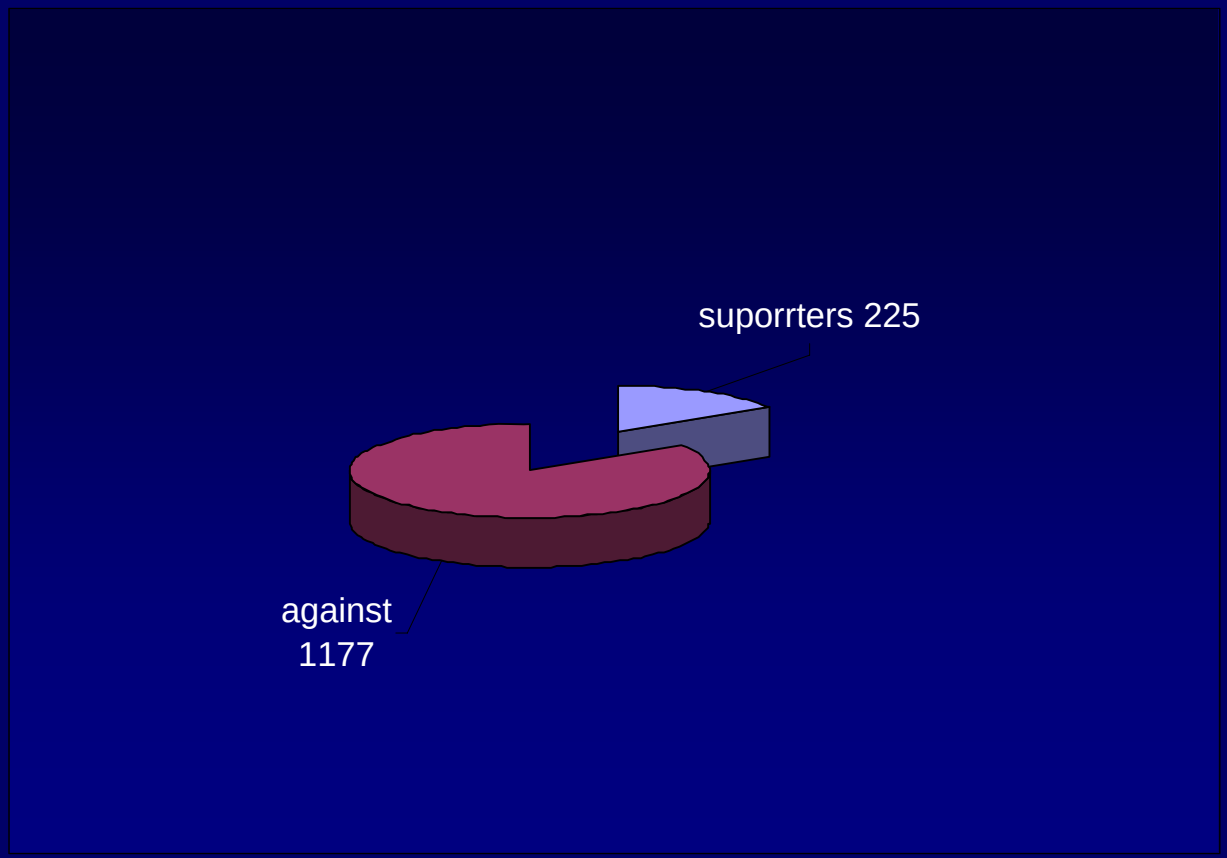


- Pententiary judges
- I instance judges
- II instance judges
- Judges in training
- Prison Service officers
- Prosecutors
- Probation officers
- Probaton officers' assistants
- Defence lawyers
- Other

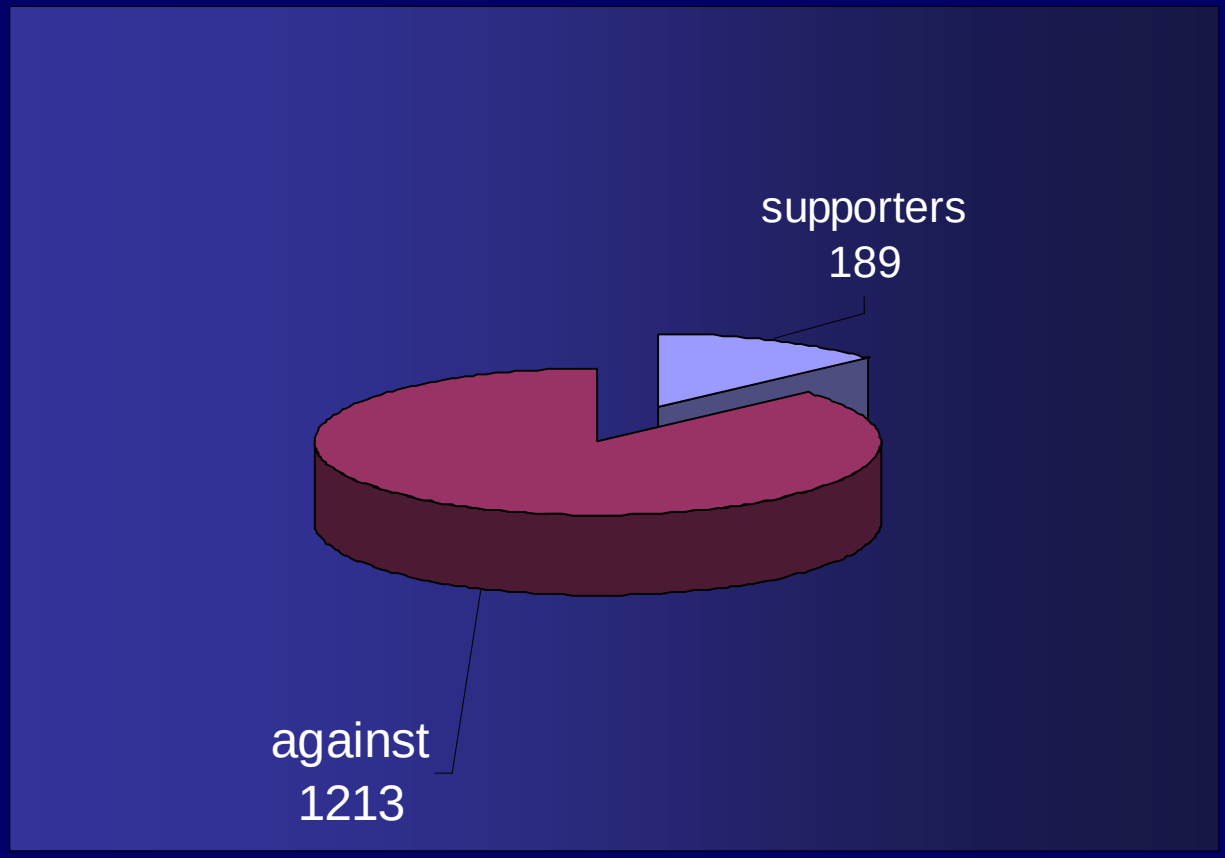
Re: overcrowding in prisons



Re: using EM along with conditional discharge for 2 to 5 years



Re: using EM along with suspended custoty for 2 to 5 years



The EM Bill

Upon decison of a penitentiary court issued at the post-sentecing stage:

- in **a front-door programme-** a short time imprisonment term (up to 6 months) could be served in a form of curfew with electronic monitoring
- in a **back-door programme**- a convict who is sentenced for up to 1 year in prison and has no more than 6 months of the term left, can serve the rest of his term under electronic supervision

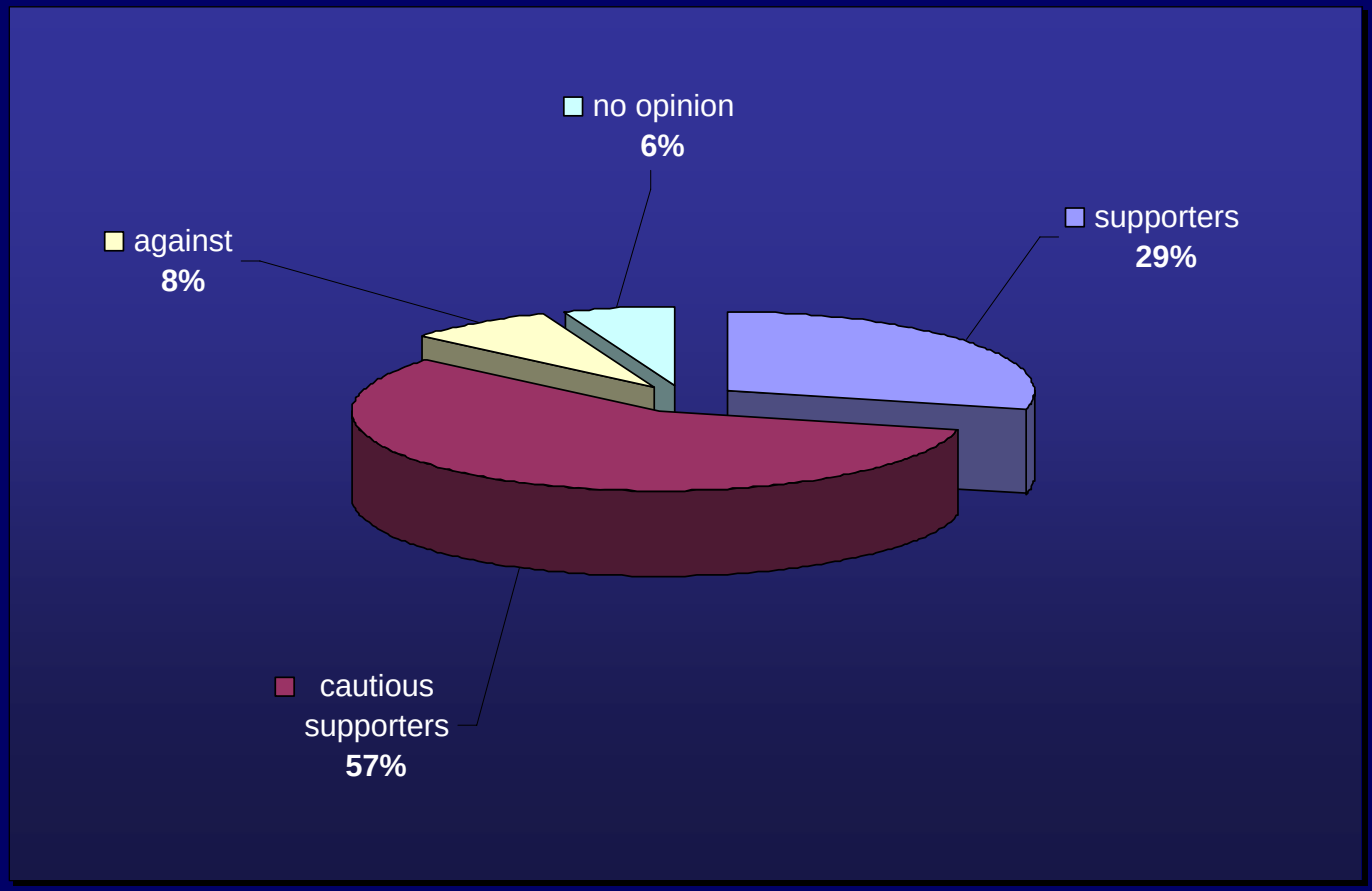
EM- the scope

- RF technology
- House arrest
- Restraining order (person, place)

The proposed regimes of incarceration in Poland

- Lock-up
- Semi-open
- Open
- EM

Re : Opinions on the proposed solution



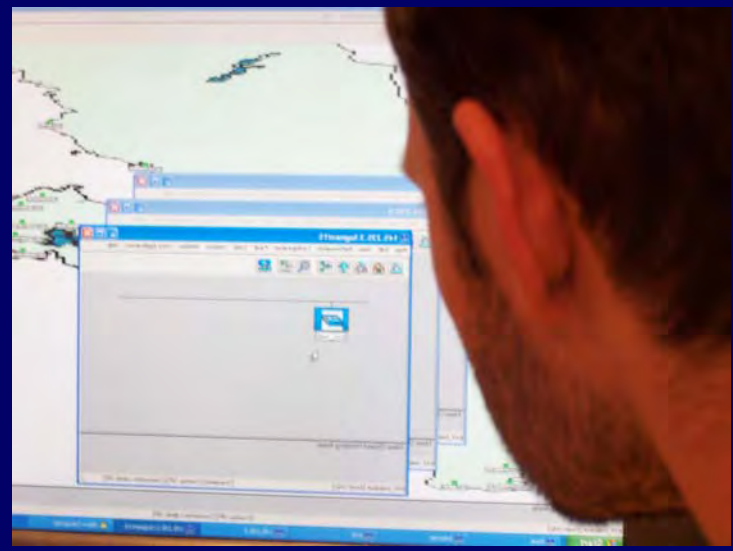
Short time incarceration*

- from 1 to 3 months 760
- from 3 to 6 months **3845**
- from 6 to 12 months 12290

*as of 31.12.2007

Monitoring of offenders: actors

- Penitentiary judges
- Probation officers
- Authorised EM service provider



Authorised EM service provider

- Providing hardware, software and necessary infrastructure
- Installation of equipment
- Maintenance and technical control
- Data storage

Tbc.

electronic monitoring

CEP Mar2007

PORTUGAL BAIL CURFEW – HOUSE ARREST

EM Porto chief officer Susana Pinto - susana.pinto@irsocial.mj.pt
EM director Nuno Caiado - nuno.caiado@irsocial.mj.pt

why EM?

90´s decade

- prisons overcrowded and too much inmates in pre-trial detention
- 1998: penal procedure code amendment EM as part of the response to the problem
- EM as a control tool of bail curfew / house arrest (similar requisites to pre-trial detention)

the law

- pre-trial model: bail curfew mixed model, something between front door and back door models
- settles a new space between “freedom” and prison

contract

- 2002-2004: EM done by private company (too expensive, lack of agility)
- after 2005: EM activity done by probation service (do it better and cheaper); partnership with a private provider
- responsibility on case management is always up to the probation service

contract

➔ nowadays

- private company provides technology and equipments
- installs and performs maintenance of the system and have some logistic
- Elmotech technology
- quite happy with Elmotech and the Portuguese partner

programme design – main issues

- main concern / principles
  - to be a secure solution to the courts and the public
  - to be understandable to the lawyers and the police

EM requisites

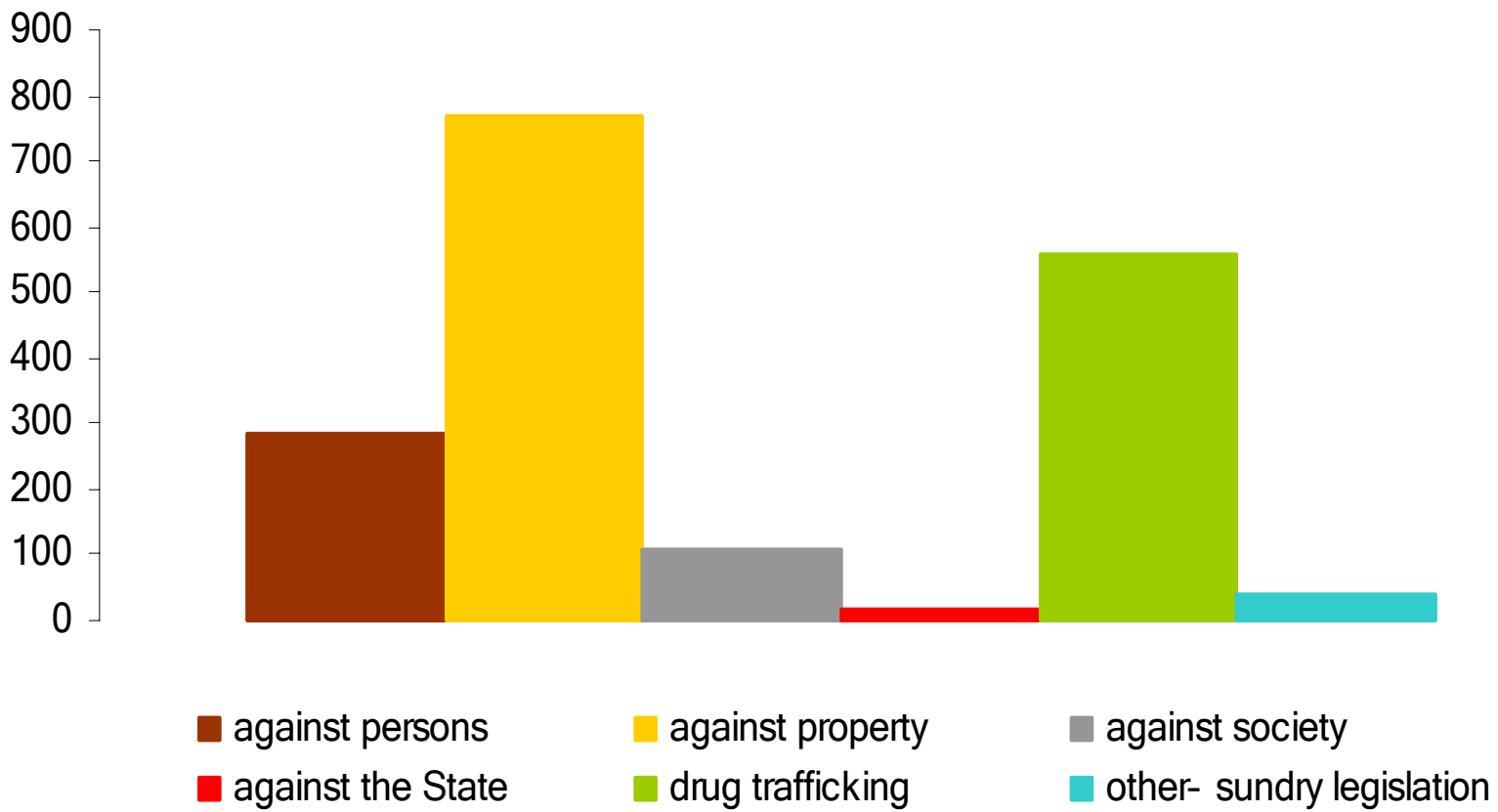
- housing
- defendant consent
- co-habitants consent

eligibility criteria

- law does not mention specific criteria
- the same general criteria for pre-trial detention
- judges good sense, opportunity and reasonable decisions

elegibility criteria

➔ all types of crimes



operations

→ previous issues

- previous probation report to courts
- assessment and selective tool

- 5 working days
- decision always up to the judge

negative eligibility criteria

- probation service internal criteria

  for reports to courts

  - homeless
  - no self-contain defendants
  - very young defendants with serious criminal behaviour
  - violent families
  - violent defendants

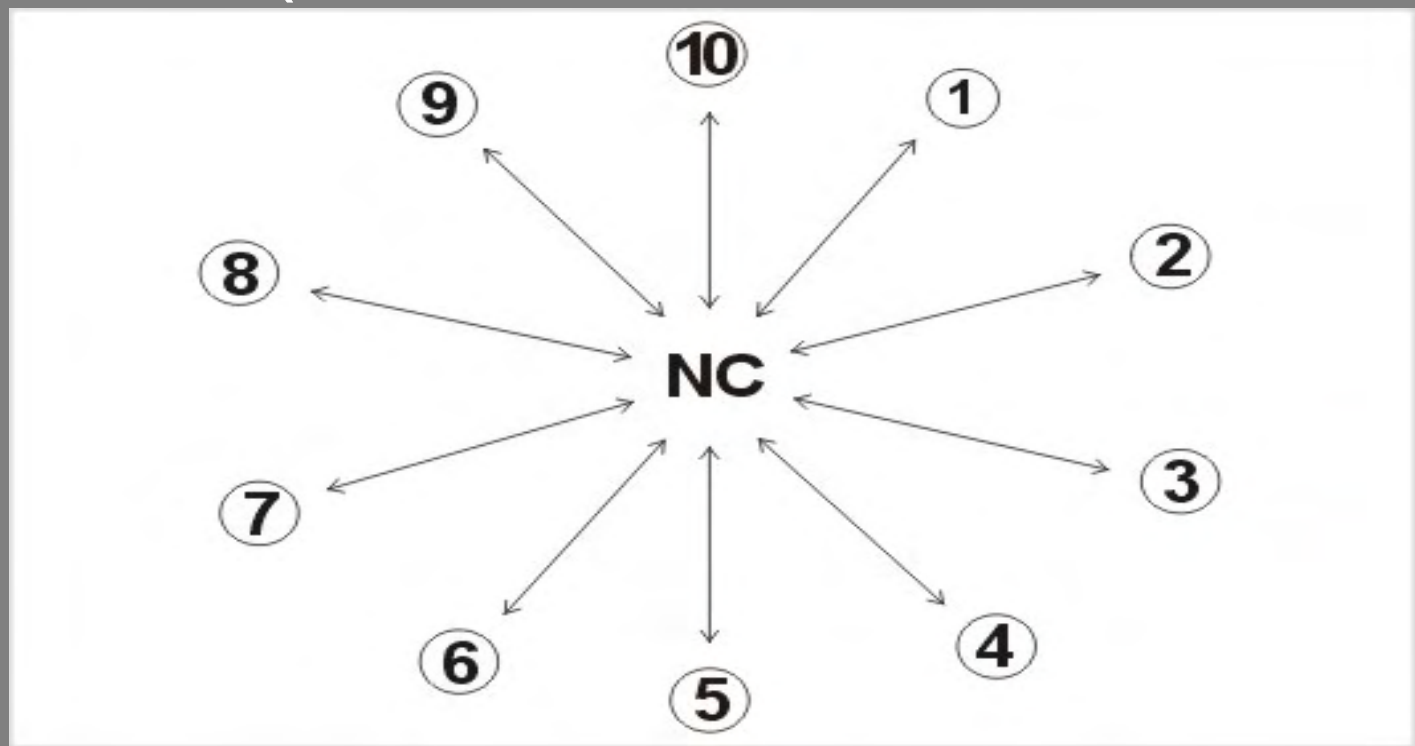
negative eligibility criteria

- foreigners without serious relation to Portugal
- intense escape danger
- when home is propitious to commit crimes
- active drug addicts or without therapy

- BUT THE DECISION IS ALWAYS UP TO THE JUDGE

how does it work?

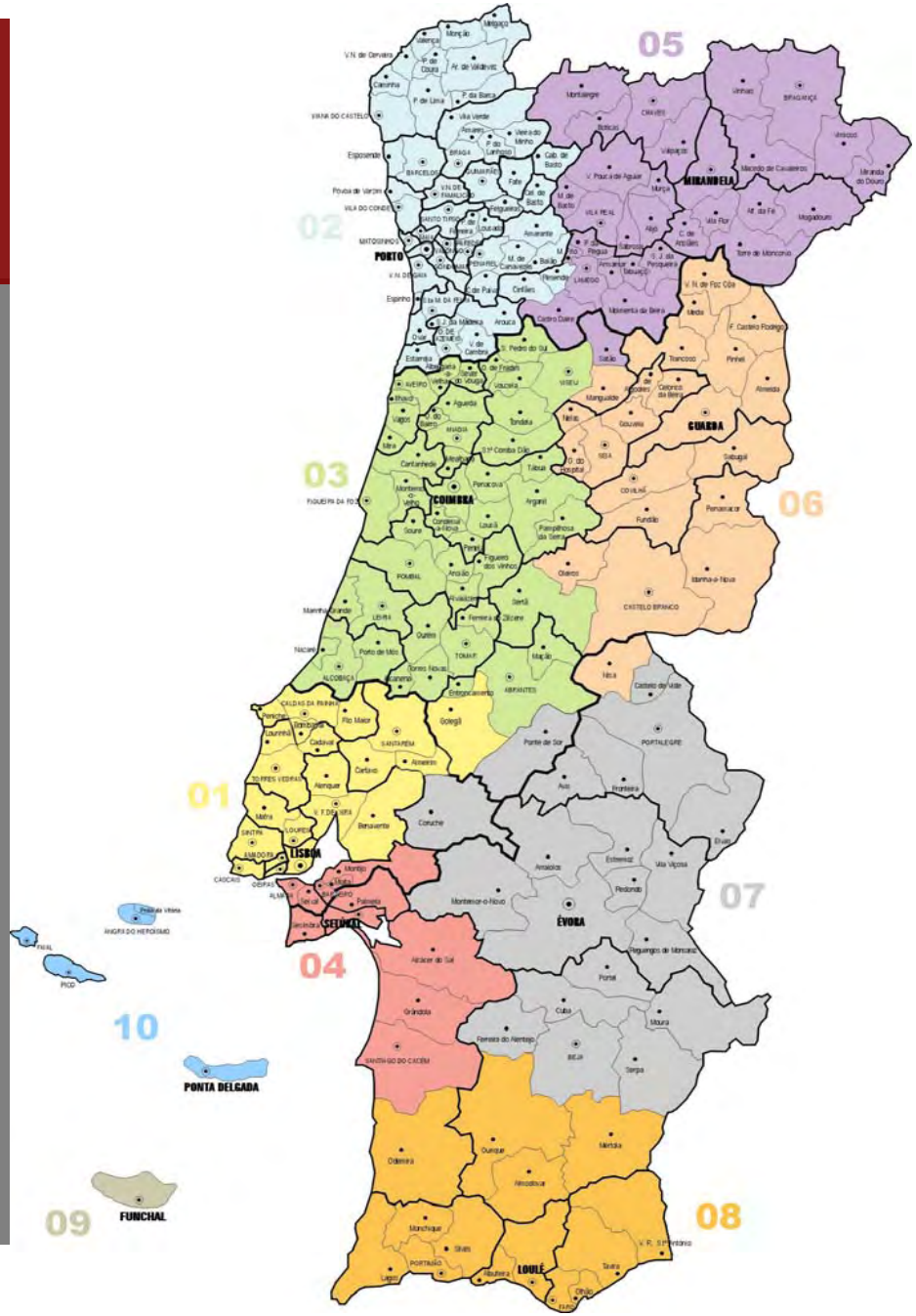
- star model structure 24h/day, 365 days/year
  - 10 units (8 for Continent, 2 for the Islands)



  - 1 national centre: supervision of EM units

10 territorial units

24h/day, 365 days/year



EM units

➔ all units work under the same rules and direction

EM units operations

- EM units task

- exclusive mission: EM
- zero tolerance policy
- common sense

- all operations are ruled by high national standards, a national protocol of action

EM units operations

➔ assistance and control

➔ assistance
to the defendant

- moderate social work, since we operate with defendants, not offenders (pre-trial phase)

EM units operations

- one on one approach, to accomplish a successful measure and to prevent violations
- help defendants to handle with confinement

EM units operations

- control
  - all events have some response
  - reaction to the events
  - to restore normal control of EM in case of violation or breach
  - to verify and control the warrants purposes
- regular and incident reports to the court

EM units operations

- warrant types
  - regular (under court authorization): to work, study, or health continuous care
  - exceptional (under court authorization): to certain finalities (medical care, to go to the police, to get ID card)
  - unexpected: medical emergencies

EM units operations

➔ intensive control

- before warrants are granted, EM units check the justification for the request
- controls the defendants fulfillment of the granted warrant

EM units operations

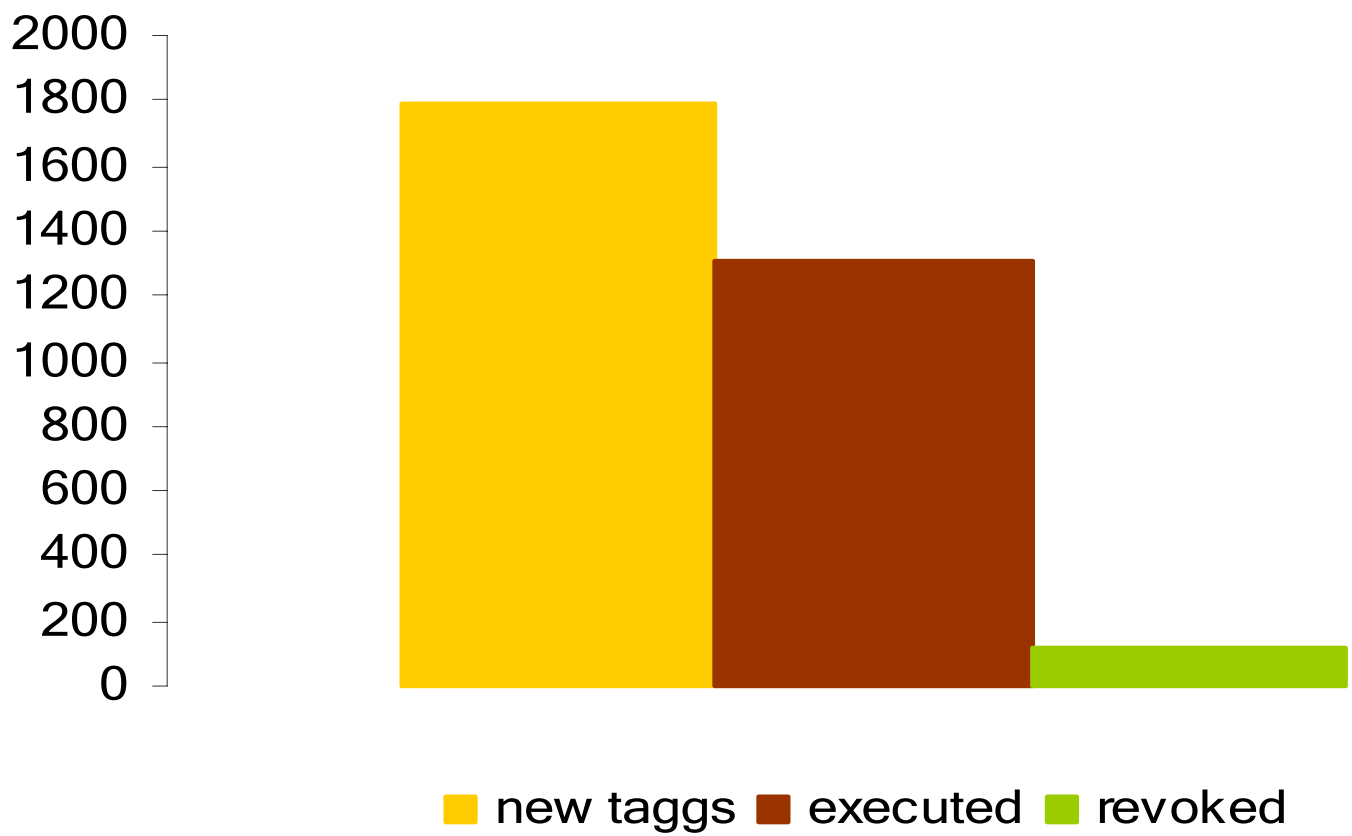
- personnel
  - probation officers (more assistance than control)
  - deputy probation officers (more control than assistance)
  - both control and assist

security

- security
  - EM units: adequate number of defendants controlled per unit and per officer
  - national centre: the system's “big brother”, supervision of EM units, replacement, redundancy
  - high standards
  - staff well chosen

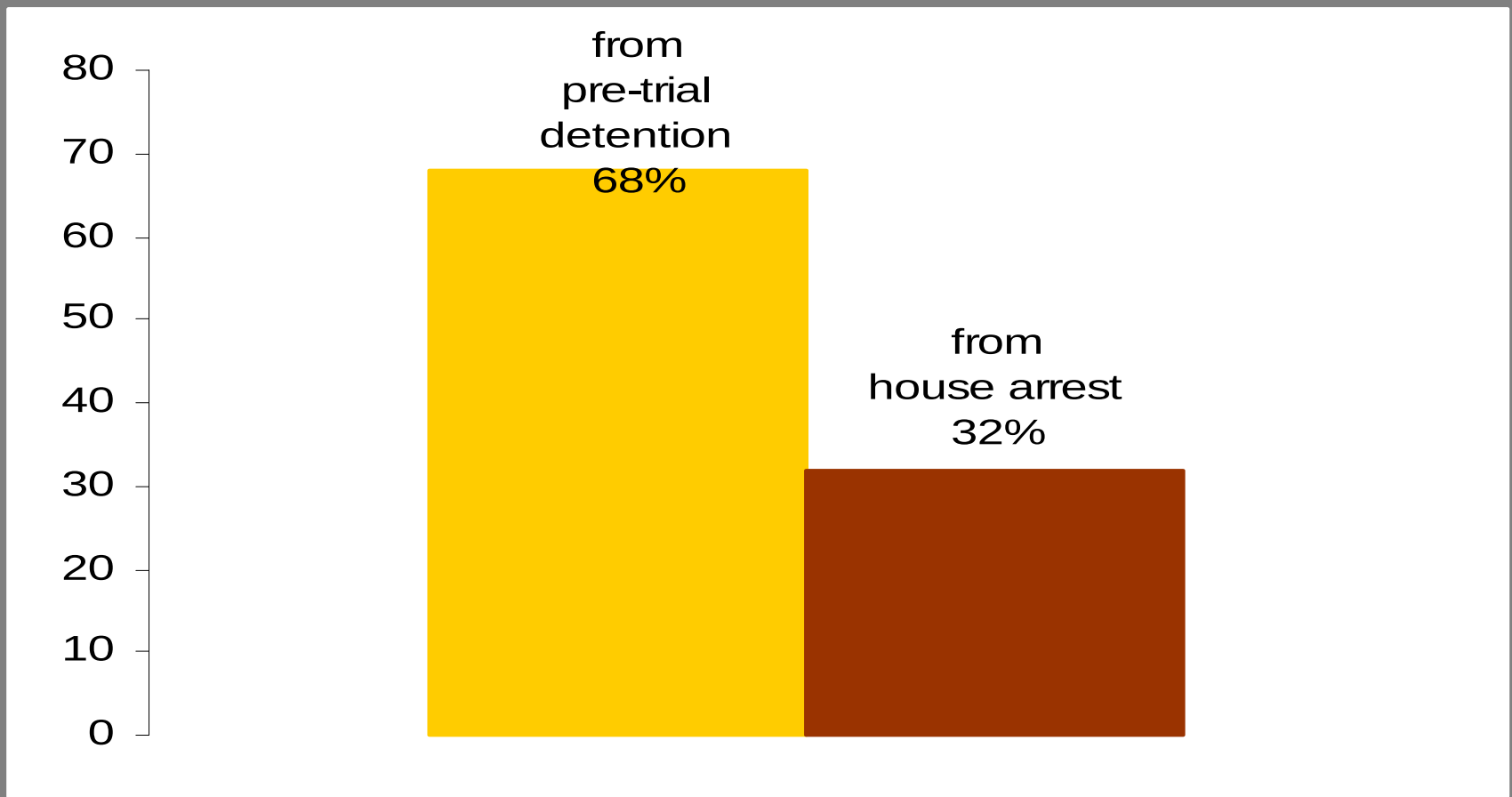
EM results

➔ about 9% revoked: 2005 8,85% | 2006 8,7%



EM results

→ about 70% came from prison



EM problems

- casting errors - courts
- assessment errors - probation service
- after serious incident, the probation service reacts very quickly, but sometimes is the only one
- legal problem: different understandings of the law
- law is too old and too naïf

why did it work?

- consciousness that EM is just an instrument for law, order and probation
- results depend on the human factor: the way technology is used by the operators and probation officers

why did it work?

- right methodology: pilot + extension
- original concept?
  - not copied, just inspired on foreign experiences
  - zero tolerance and though programme combined with probation work with defendants
- intensive supervision

why did it work?

- good organization model (star)
- star model + national centre means
  - responsibility
  - security
- high probation standards
  - well defined procedures
- high security standards

why did it work?

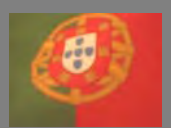
- openness to the courts
- media strategy
- lots of distinguished information

the future

- early release
  adaptation period to the parole until 1 year
- prison until 1 year (exceptionally until 2 years): to be served at home
- new challenge
  - keep previous experience integrity
  - assistance and control: equal terms
- voice verification: complementary control

thank you

electronic monitoring



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PORTUGAL BAIL CURFEW – HOUSE ARREST

EM Porto chief officer Susana Pinto - susana.pinto@irsocial.mj.pt
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SCOTTISH EXECUTIVE
Central Research Unit

EVALUATION OF ELECTRONICALLY MONITORED RESTRICTION OF LIBERTY ORDERS

David Lobley and David Smith
Lancaster University

The Scottish Executive Central Research Unit 2000

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The views expressed in this report are those of the researchers and do not necessarily represent those of the Department or Scottish Ministers.

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We would like to thank the management of Premier Monitoring Services in Aberdeen and GSSC in East Kilbride for their cooperation and hospitality, and all the members of staff of the two contractors who have consistently provided us with detailed information and attempted to answer the many questions and queries that have arisen. A similar debt of gratitude is also owed to the members of the Hamilton Sheriff Court Social Work Unit, and Aberdeen City Council and Aberdeenshire Council Social Work Departments, who collectively provided much of the data used in this evaluation. Members of staff at the three courts were also most helpful, and we would particularly like to acknowledge the considerable help and assistance provided by the Sheriffs we interviewed who were most generous with their time. This report would not have been possible without the cooperation of all those individuals who agreed to be interviewed, and this of course includes the offenders 'on the tag' and their family members. Finally, we are grateful to the members of the Advisory Group established to oversee the evaluation, and also the members of staff at The Scottish Executive Central Research Unit, for their support and advice.

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SUMMARY

The scope of the evaluation

The research contains information on all restriction of liberty orders with electronic monitoring made in the 3 Sheriff Courts involved in the pilot scheme from the start of the scheme in August 1998 to the end of October 1999. It includes data on the completion or breach of orders up to the end of February 2000, and gives basic information on orders made between November 1999 and February 2000. The source of the quantitative material in the report is the records kept by the relevant agencies, principally the Social Work Departments and the contractors who provided the electronic monitoring equipment; figures on sentencing patterns in the 3 courts come from the Scottish Executive. The qualitative material comes from interviews with members of relevant groups - social work staff, Sheriffs, contractors' staff, court officers, and offenders and their relatives - and observations of practice. As with all research based on such sources, there are limitations in the accuracy and completeness of the quantitative data, and no guarantee that those interviewed provide a representative sample of their respective groups.

Introduction and implementation

Restriction of liberty orders were introduced by the Crime and Punishment (Scotland) Act of 1997, which provided for periods of restriction either to or from a specified place for a period of up to 12 months. The Scottish Office decided to pilot the new measure in Aberdeen, Hamilton and Peterhead Sheriff Courts. National and local advisory groups were established to oversee the implementation of the pilot schemes, and the Social Work Services Group produced a handbook for the guidance of practitioners. Contracts for the electronic monitoring of the orders were awarded to the General Security Services Corporation and Geografix Ltd. (later Premier Monitoring Services Ltd.). The pilot schemes were officially launched in August 1998. The training provided for relevant practitioners was generally found helpful, and the local advisory groups worked effectively to resolve problems of procedure and inter-agency communication.

Assessment

Assessments for restriction of liberty orders were invariably provided in conjunction with a social enquiry report. In the period to October 1999, about 422 such assessments were made: 170 in Aberdeen, 32 in Peterhead, and about 220 in Hamilton. Social workers were more likely to take the initiative in suggesting restriction of liberty orders in Aberdeen than in the other courts. No consensus emerged among social workers or Sheriffs about the types of offender for whom the order was most suitable, although it was generally felt that restriction of liberty should be conceived as a high tariff community sentence that might in some cases replace custody. Factors judged to make offenders unsuitable for an order included family tensions, unsettled accommodation, negative attitudes on the offender's part, and chaotic and erratic lifestyles, often associated with drug use. Restriction from a place was considered in only 3 cases, and no such orders were made.

The use of the orders

Overall, 152 orders were made, on 142 individuals: 53 in Aberdeen, 5 in Peterhead, and 94 in Hamilton. On average 11-12 orders were made each month. There was no indication of an increase in the use of the orders over time. More than two-thirds of the orders made incorporated the maximum daily period of restriction, 12 hours, but orders made in Aberdeen were more likely to link restriction periods to patterns of offending: for example, day-time restriction was sometimes thought appropriate in cases involving offences such as shop theft and housebreaking. With regard to the length of orders, 32% were for 3 months, and 26% for 6 months; Hamilton produced the highest proportion of longer orders, and Aberdeen of shorter orders. More than half (54%) of the offenders made subject to orders were aged 16-20, and 26% were aged 21-25. Only 9 female offenders were made subject to an order, 7 of them under the age of 26. Despite the reservations expressed by some Sheriffs about the capacity of younger offenders to cope with the disciplines required by the orders, they were in practice used predominantly for this group. Only 51 of the orders were 'stand alone', in that they were not combined either with an existing community sentence or with one made to run concurrently with the restriction of liberty order.

Of the 53 orders made in Aberdeen, 44 were for offences of theft and housebreaking, while in Hamilton 36 of the 94 orders were for these offences. The Hamilton court was more likely to use the orders in cases of assault, breach of the peace, and road traffic offences. In relation to previous offending history, 95 (63%) of the offenders on whom orders were imposed had previously served a custodial sentence, and a further 17 had been remanded in custody. Only 9 (6%) had no previous convictions. These figures suggest that Sheriffs saw restriction of liberty orders as appropriate for offenders with substantial criminal records, and used them for first offenders only when the offence was serious. Just under 40% of offenders who were considered for a restriction of liberty order but not made subject to one received custodial sentences, suggesting that the orders replaced prison sentences in about this proportion of cases.

The views of practitioners

Discussions were held with 35 Social Work Department staff, 15 Sheriffs, and 7 court officials. Among Sheriffs, enthusiasm for the new orders varied, but they tended to see them as appropriate for consideration in cases where they might also be considering a custodial sentence or another type of community sentence. Social work staff also displayed varying degrees of enthusiasm, but all groups were more likely to have become more rather than less favourable to the orders during the period of evaluation. Social work staff's support for the orders tended to be subject to the proviso that they ought to be used solely as an alternative to custody.

There was no consensus on the types of offender, or of offence, which would indicate suitability for an order, though some practitioners held firm views - for example, that an order might help to break an identifiable pattern of offending. Nor was there any overall agreement on what the order could be expected to achieve, or whether its purposes were purely negative or could also incorporate an element of positive change. Both Sheriffs and social work staff, however, stressed the need for orders to be 'achievable', and therefore the importance of careful assessment of suitability. They also agreed that the electronic monitoring equipment had performed satisfactorily, and that it might be useful as a means of regulating offenders

bailed with restrictive conditions. Interviews were also held with 16 staff employed by the providers of the equipment. They were generally positive about the potential of the orders, their main complaint being that the number of orders made meant that they were constantly working at less than full capacity.

The views of offenders and their families

Interviews were held with 35 offenders and 19 parents or partners. These interviewees tended to be positive about the orders, since they thought that the alternative would have been a custodial sentence. Some offenders and some relatives felt they had not been well informed about the scope of the equipment at the start of the order, and some thought that the length of their orders was excessive. Parents were generally positive about the effects of the orders, though some felt that they were expected to carry an unreasonable burden of responsibility. A minority of offenders said that the order would have a long-term impact on their behaviour, but others noted that confinement to their homes did not necessarily mean that continued offending was impossible. All but one interviewee had found the contractors' staff helpful. Overall, it was clear that restriction of liberty did not inevitably lead to increased strain in family relationships, though on occasions it certainly did so.

The results of restriction of liberty orders

By the end of February 2000, 103 of the orders which had been imposed from September 1998 to the end of October 1999 had been completed, with varying degrees of success, 40 had failed, and 9 were still in force, 7 of which were being actively monitored. The overall completion rate was therefore about 72%, but the notion of 'completion' is not simple: 11 orders expired when the offender was in custody, and a further 8 offenders were not being monitored at the time of completion. A total of 35 offenders who ostensibly completed their orders did so only after substantial periods of disruption, caused by time in custody or domestic tensions. Overall, 41 orders were disrupted or terminated by substantial periods in custody, on remand or under sentence. Of the 103 completed orders, 46 only reached an end after action for breach had been initiated, and another 19 offenders received formal warnings. Only 11 offenders completed their orders with no unauthorised absences.

The 40 offenders classified as having failed to complete their orders either formally withdrew their consent or made themselves unavailable for monitoring. Of these, 23 received a custodial sentence as a result of breach action, and 9 were made subject to non-custodial sentences, including restriction of liberty orders in 3 cases. Almost half of all initial actions for breach took place in the first 2 weeks of the order.

There were positive relationships between the likelihood of failure to complete an order and the length of the order, the youth of the offender, and the seriousness of the previous criminal record. Orders that were made concurrently with another community sentence were no more likely to be completed successfully, and there was no indication that failure could be attributed to Sheriffs' disregard of social workers' recommendations.

Restriction of liberty orders accounted for about 2% of all disposals in Aberdeen during the period of evaluation, about 1% in Peterhead, and about 3% in Hamilton. If the measure were made available nationally, these figures suggest that around 1,000 orders would be made in a

year, producing a reduction of about 400 in the number of custodial sentences (though about 100 of these cases might ultimately receive prison sentences following breach action).

Costs

The unit costs of 3- and 6-month orders can be estimated as £2,500 and £4,860 respectively, assuming that centres were working closer to full capacity than was actually the case during the pilot schemes. With national availability, assuming an equal number of 3- and 6- month orders, the annual operating cost can be estimated at £3,680,000, or the equivalent of about 274 prison terms of 6 months. This would produce an annual cost saving of about £1.7 million if the displaced term in prison would have been for 6 months, but the saving would be about £0.3 million if the displaced periods in custody are assumed to contain an equal number of 3- and 6-month terms.

Conclusions

On the credit side, the monitoring equipment for restriction of liberty orders worked satisfactorily; the contractors' staff were found helpful and efficient, and responded promptly to demands on their time; the new measure was generally used in the tariff position which had been envisaged for it; Sheriffs regarded the new order as worth considering in cases where they would previously have considered another community sentence or a period of custody; social work staff generally thought the order could be useful insofar as it genuinely replaced custody; and offenders and their families generally responded positively to the making of an order.

Less positively, the number of orders made meant that the contractors' staff never worked to their full capacity. The unit costs of orders were therefore higher than might have been expected, and the rigorous requirements placed on the contractors mean that the scope for economies of scale is limited. In about two-thirds of cases the orders were combined with probation, so that there was no cost saving to the Social Work Departments. There was no consensus about the type of offender for whom the new order was most appropriate, though chaotic ways of life, associated with drug use, were thought to make successful completion of an order unlikely. Although the majority of orders were in formal terms completed satisfactorily, it was rare for an order to run its course without some violation of its requirements. In some cases, orders imposed serious strains on family relationships.

Some interviewees argued that the right place for restriction of liberty with electronic monitoring was in the context of bail rather than as a sentence, a policy option that might be seriously considered. Other policy questions raised by the evaluation include the place of the private sector in the provision of court penalties, the extent to which families can be made responsible for the oversight of a court sentence, and the feasibility and desirability of a community sentence that provides only negative reasons for compliance.

CHAPTER ONE INTRODUCTION

Background

1.1 This report is the result of research commissioned by The Scottish Office into the operation of electronically monitored restriction of liberty orders, which were made available on an experimental basis in Aberdeen, Hamilton and Peterhead Sheriff courts in August 1998. This report contains information on all orders made up to the end of October 1999, and includes data on the completion and breach of those orders up to the end of February 2000. It is based on interviews and discussions, attendance at meetings, and the analysis of data collected from the various criminal justice agencies and staff involved in the pilot projects. Basic information on the restriction of liberty orders made during the period November 1999 to February 2000 is contained in an appendix.

Research methods

1.2 The source of all the quantitative material on restriction of liberty orders in the report, and hence of all the data presented in tables, is the records kept by the various agencies involved in the pilot schemes, principally the Social Work Departments and the contractors. Like all data which is used for research purposes, but was originally collected for purposes of administrative efficiency and accountability, this material has limitations both in scope and completeness: organisations record facts that are relevant to their own interests and functions, not those that might be of interest to a researcher; and some gaps in the information recorded are inevitable, given the other pressures on agencies' administration and the difficulty often encountered with criminal records in obtaining accurate information on every variable. Recording practices may not always be those which external researchers would find most convenient: for example, the charge listed first on the court sheet need not be the most serious charge. In respect of the qualitative data in the report, obtained from interviews and observations, it should be noted that, like all interview-based research, this evaluation depended on the accessibility and willingness of interviewees. It would be unwise to claim, therefore, that those interviewed were representative of the total population (of social work staff, offenders made subject to restriction of liberty orders, etc.). This point is most relevant to offenders and their parents or partners; it is possible (though there is no positive reason for believing it to be the case) that the offenders and family members who agreed to be interviewed were unrepresentative of the total population in some significant respect other than their accessibility and willingness to be interviewed. The research data presented in the report should be read with these inherent limitations in mind.

Introduction and implementation

1.3 The Crime and Punishment (Scotland) Act 1997 introduced a new community sentence known as a restriction of liberty order. The Act provides that such an order, coupled

with electronic monitoring to encourage compliance, may be made in respect of any person aged 16 years or over convicted of an offence (unless the sentence for that offence is fixed by law). The terms of a restriction of liberty order require the offender to be in a specified place for a stipulated period of time, or, if this is deemed appropriate, not to be in a specified place for a stipulated period of time. An order restricting a person to a place can be made for a period up to 12 months, with a maximum restriction period of 12 hours in any one day. Restriction from a specified place can be for up to 24 hours a day for up to 12 months.

1.4 It was proposed by The Scottish Office that the new order would initially be available on a pilot basis, to provide an opportunity to assess the overall usefulness of the new measure and the costs involved. In an attempt to obtain a representative range of offenders from different regions, and taking into account initiatives that were under way in other courts, the decision was made to pilot the new orders in Aberdeen, Hamilton and Peterhead Sheriff Courts. This choice not only provided coverage of varied locations but meant that the new orders were made available in 2 of the busiest courts in Scotland (Glasgow and Edinburgh being the busiest), as measured by the number of persons 'with charge proved' in Sheriff Summary Courts: the relevant figures for the Aberdeen and Hamilton courts respectively in 1997 were 4,906 and 4,832 (The Scottish Office, 1999, p. 23). The comparable figure for the Peterhead court was 1,056, allowing a comparison to be made between practice in 2 busy courts and one relatively small one. Together, the 3 courts account for 13% of all Scotland's Sheriff Court criminal cases and could be expected to provide a substantial pool of offenders eligible to become the subject of a restriction of liberty order. In 1997, though less markedly so in 1996, the overall pattern of sentencing was very similar in Hamilton and Peterhead, with 10% of offenders with a charge proved receiving a custodial sentence and 65% in Hamilton and 67% in Peterhead receiving a fine. In comparison, the corresponding figures for Aberdeen were 17% for custody and 56% for fines. The choice of courts thus allows some comparisons of the use of the new measure in courts with a slightly below average figure for the percentage use of custody and one with a slightly above average figure; the percentages for all Scotland's Sheriff Summary Courts 1997 were 14% for custody and 60% for fines (The Scottish Office, 1999, p. 23).

1.5 The Scottish Office established a national advisory group, with representatives from the criminal justice agencies which would be involved in the pilot project; its first meeting took place in April 1998. The main purposes of this group were to lay down an agreed framework for the pilot scheme, to establish procedures for the operation of the new orders, and to consider issues with potential national implications. In addition, local liaison groups were established in the 3 areas to promote the smooth running of the pilots through the sharing of information and the resolution of inter-agency problems as they occurred. There was some overlap between the memberships of the local and national groups.

1.6 The national group met on 3 occasions in as many months, working out the procedures necessary for the commencement of the pilot in August 1998. Following its discussions, the Social Work Services Group of The Scottish Office produced a handbook in June that set out the specific roles of the various participants in the projects (principally Sheriffs, social workers, Sheriff Clerks, and contractors, with the police and Procurators Fiscal in minor roles), and an agreed set of guidelines and procedures; in particular, these related to the role of the contractor (the provider of the electronic monitoring equipment), the rules on absences, both authorised and unauthorised, on the part of the offender, and the procedures to be followed in the event of breach action. A revised version of the handbook appeared in November (Social Work Services Group, 1998), incorporating a clarification of

the role of the Procurator Fiscal in breach proceedings and applications for review of orders, and a section on the experience of electronic monitoring in other jurisdictions. Although the national group continued to take an active interest in the progress of the pilot, it agreed to meet less frequently once the schemes were in operation.

1.7 Following a competitive tendering process, which concluded with a presentation to members of the national group by the 2 successful contractors, The Scottish Office announced in July the appointment of Geografix Ltd. as provider of the monitoring equipment to the Aberdeen and Peterhead pilot schemes, and General Security Services Corporation (GSSC) as the contractor for the Hamilton pilot. (After a few months the ownership of Geografix changed, and it became known as Premier Monitoring Services Ltd.) The contractors spent the summer months of 1998 in locating suitable office premises and equipment and recruiting local staff. Both the contractors deliberately recruited staff with varied backgrounds, including the prison service, Social Work Departments, the police, teaching, and estate agency, in an effort to create what one described as a "rich blend of skills and resources" from people with "a wide background, but all with the customer service edge". Another important process in the summer of 1998 was the training and familiarisation programmes conducted for all relevant staff from the criminal justice agencies, some of whom had little experience of working with a private sector service provider. In addition to the various sessions that were held for court staff, Sheriffs, defence lawyers and social work staff, information was sent to organisations with an interest, such as the Reporter to the Children's Hearing in each area, to ensure that as much accurate information as possible was disseminated.

1.8 The Scottish Office implemented its procedures for acceptance testing of the monitoring equipment and the staffing and administrative arrangements, and the pilot was officially launched by the then Home Affairs Minister, Henry McLeish, on 24 August 1998, when he visited the East Kilbride office of GSSC and announced the introduction of "another tough and credible community sentence available to Sheriffs" in the 3 courts. It was initially envisaged that the new disposal would be available to the 3 courts until November 1999, and that after that date the pilot would continue only for as long as was necessary to monitor incomplete orders. In October 1999, however, the Scottish Executive (as The Scottish Office became) announced that the pilot would continue for an additional 12 months.

1.9 As the pilot has proceeded, a number of issues have arisen which have been referred to the Scottish Executive for advice and clarification, and when appropriate these have been discussed at the local as well as the national groups. The initial framework was designed to give the contractors very little discretion, and so help ensure consistency of standards in the treatment of offenders as well as provide reassurance to Sheriffs that the contractors were monitoring the order in strict accordance with the rules laid out in the handbook. Consequently the contractors have sought guidance on situations in which the appropriate response was unclear. For example, the groups have discussed the problems that can arise when an offender changes his or her address, perhaps involuntarily, without seeking prior approval from the court, or is arrested on other matters and held in custody and is therefore not available to be monitored, and agreed a position on the role of the contractor in such cases. Requests for absences for reasons not covered in the handbook have also been referred to the Scottish Executive for guidance. Other issues have been amicably resolved by the contractors and the agencies involved; for example, in cases where an offender was continuously in violation of the order, the original system was criticised for creating a "deluge of paperwork" in the form of a series of reports for breach, and the relevant

procedures were simplified and streamlined to the satisfaction of all involved. Members of different agencies involved in the pilots have recognised the need to establish and maintain good lines of communication across agency boundaries, and throughout the pilot period have continued to attempt to ensure that information is transferred promptly and accurately between agencies, an issue which has created local difficulties on occasions.

1.10 Although some of those involved in the pilots feel that, particularly in relation to training and familiarisation, the implementation timetable was tight, and that more time should have been allowed for this part of the process, others have accepted that no amount of training would have been enough to cover all the issues that could conceivably arise in practice, and that much learning could only come through first hand experience of the pilots in action. Most people interviewed about their initial training and familiarisation felt that it had been adequate and had given them as much information as they required to begin the process of implementation, and that they knew where to go to find out more information if they needed it. For the majority it was their first serious introduction to the concept of electronic monitoring; a number said that they gave the new development little thought until it was a reality, while others added that the very purpose of a pilot should be to "see what happens", so that it was unreasonable to demand that everything should be known in advance. However, one social worker expressed the opinion that although initially satisfied with the training, she had formed the opinion that the idea of electronic monitoring had been "sold" by the stress in the training on its potential use as an alternative to custody, and that problems had emerged over time which the training had not helped social workers to foresee.

1.11 Throughout the pilot the 2 contractors have worked consistently to raise awareness of the orders and to foster good working relationships with the other agencies; as a result, as noted above, some lines of communication and information-sharing have been streamlined. They have welcomed visits from others involved in the criminal justice system and have continued to provide training and familiarisation, both for new staff who joined the Social Work Departments or the courts, for any staff who did not attend the initial sessions and for those individuals who felt in need of a "refresher", which has included both social workers and Sheriffs.

CHAPTER TWO ASSESSMENT OF SUITABILITY AND FEASIBILITY OF RESTRICTION OF LIBERTY ORDERS

2.1 Before a restriction of liberty order could be imposed the court had to obtain the consent of the offender and other relevant information about the place of restriction and the possible impact of an order on any other residents. The source of this information was to be a specific restriction of liberty order assessment provided by Social Work services, and although a Social Enquiry Report was not mandatory the restriction of liberty order assessment was invariably provided in conjunction with such a report. This process involved the social worker making an assessment of the offender's suitability for a restriction of liberty order, considering issues such as the_individual's attitude towards the disposal and their previous offending history, as well as practical matters such as work commitments, or regular domestic responsibilities like child-care. The stability of the offender's living arrangements and family relationships were investigated, and the possible impact of an order on any other members of the household was explored. Wherever possible social workers interviewed other members of the household to ensure that they fully understood what a restriction of liberty order entailed and to establish that they were also willing to cooperate. During the period in question there were approximately 422 restriction of liberty order assessments

presented to the 3 Sheriff courts: 170 to the Aberdeen court, 32 to Peterhead and approximately 220 to Hamilton. In each court some offenders were assessed on more than one occasion. Figures on the number of orders imposed in each of these courts (presented in Chapter Three) demonstrate that a higher proportion of assessments in Hamilton (43%) resulted in an order than in Aberdeen (31%) or Peterhead (16%).

2.2 Decisions about which cases should be assessed for restriction of liberty orders have not always been straightforward: Sheriffs have mentioned that they have requested assessments on individuals who they felt on reflection had obviously not been suitable candidates, and one said that he was sometimes reluctant to request an assessment in case it restricted the options available to the ultimate sentencer. Some Sheriffs made it clear that if they thought a restriction of liberty order was worth considering they would specifically ask for an assessment, while others considered it helpful for social workers to comment on the feasibility of such an order almost as a matter of routine. Some social workers have taken the initiative in suggesting restriction of liberty orders, the first order in Aberdeen being a clear example, and others routinely comment on all sentencing options, including restriction of liberty orders, but no clear pattern has emerged from a scrutiny of Social Enquiry Reports: practice has depended on individual workers' professional judgement and their view of the restriction of liberty order. As one social worker explained, "I include it in the sentencing options. I like to keep it in the Sheriff's mind", while another said that he could not identify any "therapeutic benefit" from an order, and had therefore never recommended one.

2.3 The importance of a thorough and careful assessment was stressed by social workers. They typically argued that many offenders, particularly the younger ones, would "agree to anything to stay out of jail", without necessarily understanding what was entailed, and without being prepared, or able, to commit themselves to the terms of an order, thus leaving themselves open to the consequences of the inevitable breach action. An alternative view was also expressed: that as more offenders understood the restriction of liberty order, and observed how it affected people they knew, they became more inclined to say that that they would prefer to spend a short time in prison rather than what would normally be a longer time 'tagged'. This was thought to be particularly the case among older, persistent offenders who had regular experience of prison.

2.4 Some social workers felt that it was only with the passage of time and therefore experience that they fully realised the implications of the restriction of liberty orders for other family members. Some staff were concerned that they did not always have sufficient time fully to assess the family dynamics and explore the implications of the order with other family members, and that parents and partners - in particular mothers and 'wives' - were under pressure to be seen to agree, and so help keep the offender out of jail. The reality of an order, and of living with someone restricted to the home for perhaps as much as 12 hours a day, took time to explain. And despite the best efforts of social workers, one mother expressed her disbelief during the induction while her son was having his 'tag' fitted: "You mean he can't even go out to the ice-cream van?".

2.5 Analysis of more than 300 Social Enquiry Reports and restriction of liberty order assessments has shown a range of possibilities that are presented to the courts:

- the order is not considered feasible, for such reasons as the offender's unsettled or inadequate accommodation, family tensions, the fact that previous offences have occurred within the home, the absence of any identifiable pattern of offending, irregular work

commitments, or individual attitude: "..he has no respect or commitment to community based disposals"

- the order is possibly feasible, but is not considered appropriate, generally because of the offender's immaturity, erratic lifestyle, and/or drug abuse
- the order is confirmed as feasible ("there appears to be no significant reason as to why an order should not be imposed"), but does not form part of the final 'recommendation', either because circumstances are thought not to warrant an order ("...[it] may be considered premature"), or because other community disposals are preferred on such grounds as that they will "provide a degree of discipline and structure" and allow the offending behaviour to be addressed, whereas a restriction of liberty order on its own "would not address his offending behaviour"
- the order is considered feasible and is presented as a direct alternative to custody - "a community based punishment if the court were considering a prison sentence" -or to provide a "final opportunity to remain at liberty and prove he can comply with the requirements of a statutory order"
- the order is recommended, on grounds such as its potential to prevent the individual becoming involved in further offending behaviour, "to provide a level of stability and control", and "to provide a punitive sentence, that would allow him to continue in his employment and make further progress in his choice of a more mature and responsible lifestyle"

2.6 One assessment that has not been widely used, although it was the subject of considerable discussion in the planning stages, is that of the feasibility of restriction from a place. Both social workers and Sheriffs have expressed conflicting views about the value of this aspect of the legislation; while some consider it not very useful, or practical, others think that it could be useful at some stage, but that they have yet to encounter an appropriate case. In 3 cases an assessment was begun, but in each the offender failed to co-operate with the process or withheld consent; 2 of these cases resulted in prison sentences, of 2 years and 7 months, and the third in a 12-month probation order and a community service order of 100 hours. In another case, the assessment concluded that restriction from a place would be practicable, but the court decided to make a 3-month order restricting the offender to his home - an order that was successfully completed. It seems likely, then, that orders restricting an offender from a place would be used only rarely, if the availability of orders were to be extended.

CHAPTER THREE THE USE OF THE ORDERS

3.1 The pilots were officially launched on 24 August 1998, and the first restriction of liberty order was made at Aberdeen Sheriff Court on 1 September; but almost 7 weeks elapsed before an order was made in the other courts, the first being made by the Peterhead court. Table 3.1 shows the number of orders made in each court on a monthly basis to October 1999, the monthly totals for the 3 courts, and the cumulative overall total.

Table 3.1 Numbers of orders made in the three courts

	Aberdeen	Peterhead	Hamilton	Total: Monthly	Overall
September 98	3	0	0	3	3
October 98	3	2	4	9	12
November 98	4	0	8	12	24
December 98	5	1	7	13	37
January 99	1	0	5	6	43
February 99	3	1	10	14	57
March 99	6	0	12	18	75
April 99	2	0	8	10	85
May 99	5	0	6	11	96
June 99	3	0	12	15	111
July 99	7	0	2	9	120
August 99	1	1	3	5	125
September 99	6	0	10	16	141
October 99	4	0	7	11	152
TOTAL	53	5	94	152	

3.2 The first restriction of liberty order had been suggested as worthy of consideration in a Social Enquiry Report - a proactive approach on the part of the Social Work Department which has remained more common in the north east than in Hamilton. Not counting the initial month of September 1998, when reports and assessments were generally being requested rather than considered, the number of orders made across the 3 courts during the following 13 months ranged from 5 in August to 18 in March, the mean monthly figure being between 11 and 12. Although restriction of liberty orders have remained a relatively little used disposal (the issue of their "market share" is addressed later in this report), interviews suggested that with the passage of time they became an integral part of Sheriffs' thinking:

> "It has now become part of the vocabulary of the bench. In the early days no one thought of restriction of liberty orders; we now consider it almost automatically."

3.3 The majority of orders imposed periods of restriction of between 10 and 12 hours, and more than two-thirds included the maximum period of restriction, 12 hours in any 24. This pattern was particularly clear in Hamilton, whereas in Aberdeen some orders suggested a more flexible and individualised approach on the part of Sheriffs: in Aberdeen there were a number of orders that linked the restriction period to patterns of offending. For example, housebreaking and shoplifting are both typically day-time offences, and day-time restrictions could be seen as a form of individualised incapacitation; orders with day-time restrictions

tended to include slightly fewer hours of restriction than those where the period of restriction began in the evening (the classic curfew model). Although the very first orders imposed were for weekdays only, the majority of orders over the pilot period restricted the offenders on every day of the week; sometimes the weekend restriction period was different from that for weekdays, to allow for different work patterns, or in some instances to take account of previous offending behaviour. Only one order, for 12 months with a period of attendance at the Airborne Initiative, was designed at the outset to reduce the period of restriction from 7 to 5 nights approximately half way through. In other cases the periods and times of restriction were obviously carefully considered, and some periods of restriction expired when, in the words of one sentencer, "all good citizens should be in their beds", to attempt effectively to curtail activity for longer than the 12 hour maximum.

3.4 A total of 142 individuals have been made the subject of the 152 restriction of liberty orders, with 5 offenders in Aberdeen, 3 in Hamilton, and one in Peterhead repeating the experience. In addition, one offender has had a third order imposed, to run concurrently with an existing order. Although the number of orders made represents a small proportion of all sentences imposed in the 3 courts, the 125 orders imposed in the first 12 months suggest greater interest on the part of sentencers than the corresponding figure of 83 reported for the first year of the trials of curfew orders in England in 1995-96 (Mair and Mortimer, 1996) - and in the English trials the new measure was available in 16 courts (Mortimer and May, 1997, p. 20) rather than in 3. The Sheriffs have, therefore, not shown the same reluctance to impose the new orders as some magistrates seem to have shown during the first year of the English trials.

Characteristics of offenders

3.5 Table 3.2 illustrates the ages of all offenders at the time the restriction of liberty order was imposed; it therefore shows the total number of orders (152) not the number of individuals (142). Table 3.3 refers specifically to the small number of females involved.

Table 3.2 Ages of all offenders made subject to orders, by court

Age	Aberdeen		Peterhead		Hamilton		Total	
	Number	%	Number	%	Number	%	Number	%
16 - 20 years	33	62	3	60	46	49	82	54
21 - 25 years	15	28	1	20	24	26	40	26
26 - 30 years	2	4	1	20	13	14	16	11
31 - 35 years	1	2	0	0	4	4	5	3
36 - 40 years	0	0	0	0	3	3	3	2
41 plus	2	4	0	0	4	4	6	4
TOTAL	53	100	5	100	94	100	152	100

Table 3.3 Ages of female offenders made subject to orders , by court

Age	Aberdeen	Peterhead	Hamilton	Total
16 - 20 years	2	0	2	4
21 - 25 years	1	1	1	3
31 - 35 years	0	0	1	1

41 plus	0	0	1	1
TOTAL	3	1	5	9

3.6 Not surprisingly, the vast majority of offenders made subject to a restriction of liberty order were men, and, in particular, young men: 78 were aged between 16 and 20, and a further 37 were aged 21-25. Seven of the 9 women were also within these age groups. Table 3.2 shows differences in the age profile between the Hamilton and Aberdeen courts: one quarter of the Hamilton offenders were over 25 years old, compared with 10 per cent in Aberdeen. To determine whether these differences could be accounted for by differences in the age profile of offenders sentenced in each court, the preliminary figures for the relevant period were obtained from the Scottish Executive Justice Department. These show that offenders under the age of 21 accounted for 32% of all cases in Aberdeen, while in Hamilton the figure was 27%. The comparable figures for 21-25 year-olds are respectively 23% and 25%. During the period of the pilot, offenders aged 30 or less accounted for about two-thirds of all convicted offenders in Aberdeen and Hamilton, but for approximately 90% of all restriction of liberty orders. This pattern may reflect the concern of Sheriffs to find alternatives to custody wherever possible, even though a number of social workers and Sheriffs expressed doubts about the ability of many young people to adhere to the terms of an order. Both social workers and Sheriffs on occasions used phrases such as "prison didn't work for him", or "it didn't seem to do him any good"; and many said that they welcomed the new order as another non-custodial disposal. This was seen by some as merely a postponement of an eventually inevitable custodial sentence, but others took a more positive view of the potential of the orders to help to provide a period of stability and perhaps abstinence from criminal pursuits, and to encourage a more responsible and ordered lifestyle: on this view, it was worthwhile to "try anything to break the pattern of offending behaviour".

Length of orders

3.7 The duration of the orders made in the 3 courts is shown in Table 3.4. It shows that the most common lengths of orders have been 3 and 6 months. The Hamilton court has, however, imposed orders of over 6 months in almost one-quarter of cases, while the Aberdeen court has made only 3 such orders, all for 12 months. The Aberdeen court has also imposed a greater proportion of shorter orders. In Hamilton the short order has been used as a device to help settle and stabilise an offender prior to attendance at the Airborne Initiative as a condition of probation, and in both courts short orders have been imposed on offenders who received more than one period of restriction. Discussions with Sheriffs suggest that most think it important to make orders of a length which gives a reasonable chance of successful completion, but a minority said that they felt under no such constraint, and believed that the full power of the legislation should be used in appropriate cases, if required by the seriousness of the offence(s) or by the pattern of previous offending.

Table 3.4 Length of original orders in the three courts

Duration	Aberdeen	Peterhead	Hamilton	Total: number	percent
1 month	3	0	0	3	2
6 weeks	0	0	2	2	1
2 months	4	0	4	8	5
10 weeks	0	0	2	2	1

3 months	27	1	21	49	32
4 months	1	2	13	16	11
5 months	0	0	9	9	6
6 months	15	2	22	39	26
8 months	0	0	4	4	3
9 months	0	0	9	9	6
12 months	3	0	8	11	7
TOTAL	53	5	94	152	100

Concurrent use of probation

3.8 The legislation permits a probation order to be imposed concurrently with a restriction of liberty order, and the courts used this power on half the occasions on which an order was imposed. However, as a number of offenders were already on probation, only 51 of the 152 orders made were 'stand alone', in the sense that the offender was not either already on probation or given a probation order at the same time as the restriction of liberty order. Table 3.5 illustrates the use of probation orders in the three courts.

Table 3.5 Use of probation orders in the 3 courts

	Aberdeen	**Peterhead**	**Hamilton**	**Total: number**	**percent**
concurrent probation	17	4	55	76	50
existing probation	13	0	12	25	16
'stand-alone'	23	1	27	51	34
TOTAL	53	5	94	152	100

3.9 A total of 23 'stand alone' orders were made in Aberdeen, 27 in Hamilton, and one in Peterhead. In Aberdeen 13 of the orders were made on offenders already subject to a community sentence, and in another 17 cases a concurrent probation order was imposed, combined with community service or an unpaid work requirement in at least 5 cases. In Peterhead 4 of the orders were accompanied by a probation order, and in Hamilton 12 of the offenders were already subject to a community sentence, and another 55 were given a probation order (combined with community service or unpaid work on at least 11 occasions) at the same time as the restriction of liberty order was imposed. The Aberdeen court has been more inclined to make 'stand alone' orders, possibly because Social Enquiry Reports there are more likely to suggest the possibility of voluntary involvement in the case by the Social Work Department. In addition, social workers in both areas, as the pilot progressed, were increasingly ready to identify the order as a useful disposal for those who had proved reluctant to co-operate with or resistant to social work intervention; it was another community disposal, but did not automatically involve further contact with social workers.

Nature of offences

3.10 Many of the offenders made subject to a restriction of liberty order had been convicted of more than one offence at the relevant court appearance. Table 3.6 counts only the offence that appears first on the restriction of liberty order, or, where this is not clear, the most serious offence. More than half of the offences were of theft and dishonesty, but the Hamilton court has imposed orders across a wider range of offence types than the Aberdeen court, where the great majority have been made for property offences. To some extent this may reflect the nature of the business in the courts, as the 1998 Scottish Executive figures indicate that crimes of dishonesty account for a greater proportion of the people convicted in Aberdeen, 27%, than in Hamilton, where the figure is 19%. That more than twice as many offenders in Aberdeen have received a restriction of liberty order for theft by housebreaking as in Hamilton may to some extent be accounted for by the fact that the figures for 1998 show that 359 people were convicted of that offence in Aberdeen, compared to 97 in Hamilton.

Table 3.6 Offences for which orders were imposed

Offence	Aberdeen	Peterhead	Hamilton	Total: number	percent
theft	24	1	27	52	34
theft by housebreaking	20	1	9	30	20
other dishonesty	0	0	2	2	1
assault-robbery-weapons	3	0	21	24	16
road traffic act offences	2	0	16	18	12
breach of the peace	3	1	13	17	11
misuse of drugs	0	2	5	7	5
other	1	0	1	2	1
TOTAL	53	5	94	152	100

3.11 It must be stressed, however, that listing only the first or most serious offence gives only a partial picture of the nature of offending involved: most individuals were convicted of more than one offence, and many of several; and, although the number of offences specifically related to the misuse of drugs is small, most Social Enquiry Reports examined refer to the part played by drug use in the subject's offending.

Previous criminal history

3.12 Table 3.7 illustrates the previous criminal history of each offender at the time the restriction of liberty order was imposed. Therefore, although 142 individuals were involved, the table reports the situation for the 152 orders.

Table 3.7 Criminal histories of offenders when order imposed

	Aberdeen	Peterhead	Hamilton	Total: number	percent
previous custodial sentence	36	2	57	95	63

previous remand in custody	8	1	8	17	11
previous community disposals	8	1	22	31	20
no previous convictions	1	1	7	9	6
TOTAL	53	5	94	152	100

3.13 Information is available on all the offenders: 63% had previously served a custodial sentence (68% in Aberdeen and 61% in Hamilton). In addition, 8 offenders in both Aberdeen and Hamilton, and one in Peterhead, had been remanded in custody. Among the 9 offenders with no previous convictions was a 16 year-old with a long history of offending as a juvenile but no criminal record as an adult, 5 young men who were convicted of assault and/or carrying a weapon, and a man convicted of crimes of indecency who received a 12-month restriction of liberty order along with 3 years probation and 300 hours of community service.

3.14 It appears from these figures that Sheriffs saw restriction of liberty orders as appropriate for offenders with substantial criminal records, and are likely to use them for first offenders only when the offence is serious. The proportion of offenders with a previous custodial sentence is higher than in the English trials of curfew orders, and the proportion with no previous convictions is lower; the comparable figures were 54% with a previous custodial sentence and 14% with no previous convictions (Mair and Mortimer, 1996). A further comparison can be made with the use of combination orders (with both probation and community service components) in England and Wales: Sheriff (1998) reports that 37% of defendants made subject to combination orders in 1997 had a previous custodial sentence, and 19% had no previous convictions.

Restriction of liberty orders relative to other sentences

3.15 The criminal histories and current offences of offenders made subject to restriction of liberty orders provide an indication of the place of these orders in the sentencing tariff. Another indication can be gained from an examination of cases in which a restriction of liberty order was considered by the court but for some reason not actually made. Details of the outcomes of the total of 218 such cases, from all 3 courts, where the final outcome is known, are given below.

- 84 (39%) received a custodial sentence - from 14 days to 2 years
- 39 (18%) received a community service order
- 38 (17%) were placed on probation
- 29 (13%) were placed on probation and community service
- 25 (12%) were fined
- 2 were ultimately admonished after sentence had been deferred
- 1 received a supervised attendance order

(This covers only the main penalty imposed; in a number of cases other measures, such as fines, compensation and disqualification from driving were also imposed.) The figures suggest that restriction of liberty orders were considered but not made in more cases that

resulted in non-custodial than in custodial penalties, no doubt partly because some cases were ultimately judged not serious enough for custody.

3.16 Closer analysis of a sample of these cases identified 15 cases where the court requested an assessment, but it was not practical to make an order because the offender lived outwith the jurisdiction of the court, was about to move away, or was not able to provide a stable address. In addition, another 24 cases have been identified where an assessment for a restriction of liberty order was initiated, but the offender or his parents or partner withheld their consent to the making of the order, or in a few instances gave it so reluctantly that the consent was not considered reliable: "he is not enthusiastic but has said he will comply". The eventual disposals in these 39 cases were as follows:

- 15 received a custodial sentence from 2 months to 13 months (one also received a £400 fine and 2 were also disqualified from driving)
- 8 received community service orders - 150 hours to 240 hours (2 also received a fine of £100)
- 6 were placed on probation with a condition of community service, in a range from 12 months plus 100 hours to 3 years plus 240 hours
- 6 were fined amounts ranging from £100 to £450
- 4 were placed on probation, for periods ranging from 6 months to 18 months

3.17 In another 6 assessments the social worker concluded that a restriction of liberty order was not suitable or feasible after taking account of the offender's work commitments, and for no other reason. The disposals in those cases were as follows:

- 2 received custodial sentences, of 2 months and 3 months
- 2 received community service orders, of 200 and 240 hours
- 1 received 240 hours of community service, a £1320 fine, and a 5-year disqualification from driving
- 1 received 18 months probation and 120 hours of community service

3.18 On the basis of these findings, it appears that in general, though not invariably, the courts regarded restriction of liberty orders as high tariff community sentences, which are most likely to be made in cases where another community sentence - probation or community service (or both) - might otherwise have been judged appropriate, but in around 40% of cases the orders were used when a custodial sentence was the most probable alternative. The pattern is similar to that found in the English trials (Mortimer and May, 1997), and indeed to that found in other studies of newly introduced high tariff community sentences.

CHAPTER FOUR THE VIEWS OF PRACTITIONERS

4.1 This chapter reports on aspects of discussions with the practitioners who were asked for their opinions and perceptions of the introduction and development of the pilot projects. Discussions were held with a total of 35 Social Work Department staff, including managers, senior social workers and social workers, 15 Sheriffs and 7 court officials during the course of the evaluation, and with 11 of these individuals further 'follow-up' discussions took place to consider any changes over time. Neither the legislation nor the national advisory group provided any guidance to Sheriffs about the use of restriction of liberty orders; indeed, it has been suggested that any guidance would have been most unwelcome (the opposite view to that of some magistrates in the English trials (Mair and Mortimer, 1996)). The difference no doubt reflects the high value placed on the autonomous status of shrieval authority, whereas lay magistrates south of the border are accustomed to receiving guidance on sentencing from their own Association as well as from the government (in the case of new measures). Sheriffs did, however, have access to the Handbook, which contained guidance for social workers on the appropriate use of the orders. All Sheriffs interviewed said that they would generally consider the restriction of liberty order to be a "heavy disposal", or "definitely an alternative to prison", although that would not automatically imply that if a restriction of liberty order was not made then a custodial sentence would be imposed:

> " A community service order is an alternative to prison. I may well consider a community service order as an alternative to a restriction of liberty order."

4.2 During the interviews most Sheriffs mentioned their wish to use suitable alternatives to custody wherever possible, and so, while they viewed the consideration of a restriction of liberty order as appropriate where they were "seriously considering custody", other non-custodial disposals were still possible, or even probable. In addition, "the persistent offender", who might be a constant nuisance to his local community, was identified as a potential candidate for an order, particularly if it might offer a specific opportunity to curtail his offending behaviour, even if he was probably not liable to receive a custodial sentence. As was shown in the discussion above, Sheriffs' use of these orders in practice was consistent with these views. Enthusiasm for and sensitivity to the orders' potential varied among Sheriffs, and on occasions when Sheriffs were interviewed they remarked that the fact of being interviewed served to remind them of the existence and possible uses of the new measure. Any 'Hawthorne effect' will, however, have had a minimal impact on sentencing.

4.3 Among all groups of practitioners some changed their minds over time, a process which will no doubt continue during the life of the pilots. The usual movement was from negative to more favourable attitudes: people spoke of having to "overcome an early distaste for this idea", commenting that they initially "thought the electronic monitoring was too American", or "thought this was too gimmicky". More often, however, practitioners claimed to have been neutral, and to have started with "open minds". A minority said that they were fairly enthusiastic from the outset, and only one of this small group, a social worker, had become disillusioned on the grounds that the order was not being used consistently as a direct alternative to custody.

4.4 Among social work staff, the overwhelming view has been that this disposal must be used as a real alternative to custody, and, given that proviso, some social workers feel that it is a useful sentencing option, and recognise that whatever their initial doubts, or personal

reservations, individual offenders have demonstrably complied with orders when, on their previous performance, there was little ground for optimism. Social workers, such as the 'disillusioned' one referred to above, have however, expressed doubt that some of the offenders would actually have received a custodial sentence, even when the restriction of liberty order was ostensibly an alternative to custody. The figures in chapter 3 suggest that these doubts may be well founded, as these orders, like other community-based measures, can replace other community sentences as well as custody.

4.5 Although the order was generally viewed by all practitioners as primarily an alternative to custody, about half the social workers interviewed expressed concern about the possibility of 'up-tariffing' - that is, that a restriction of liberty order may increase the subsequent risk of a custodial sentence in the event of breach action, since the court might regard custody as the only remaining sanction. This kind of worry is inevitable when a new non-custodial measure is presented as a 'last chance' before custody, and was expressed almost twenty years ago in relation to, for example, suspended prison sentences (Bottoms, 1981). Most Sheriffs, however, felt that this concern was misplaced, some arguing that the effect of restriction of liberty orders was to delay an eventually inevitable custodial sentence, rather than bringing it forward, while others explained that custody need not inevitably follow action for breach, an issue discussed below.

4.6 There were differing views about the types of cases for which restriction of liberty orders are most suitable. About one-third of the practitioners said they looked for a definite pattern of offending to indicate suitability, whereas others stressed the opportunistic nature of much offending - "lots of it is 'spur-of-the-moment' with no real pattern" - and the probability that an order would therefore merely lead to displacement in time or function (that is, the intended crime would be committed at a different time, or a different type of crime would be committed). A small number of social workers, as well as offenders, expressed surprise at the actual times of some restriction periods, since they did not seem to relate to previous patterns of offending. About one-third of the Sheriffs suggested that this disposal provided the opportunity to give the public some protection - "this gives the neighbourhood a break - some respite" - and one considered that although prison obviously provided that respite, this disposal could be imposed for longer periods than the offender would normally expect to spend in jail.

4.7 Some interviewees had a fairly clear idea of the types of offence and offender that fitted the restriction of liberty order's provisions, and those that did not. The young persistent male offender who committed crimes of dishonesty, rather than violence, was most frequently identified as the most likely candidate for an order (again, a view that is consistent with the use of the orders in practice). While most Sheriffs thought it unlikely that they would consider a restriction of liberty order for certain offences, a minority argued that there "aren't any 'no-go' areas".

4.8 With regard to the possible achievements of an order, Sheriffs and social workers again held a variety of opinions. A small number thought that the actual tag could give offenders a "constant reminder of their offending", and considered that this might help to bring about a desired change in attitude: "so that they come to terms with the consequences of their actions". Others viewed the order as a wholly negative measure, providing restriction but not encouraging longer-term change: "it offers nothing constructive"; it is "just a form of house arrest". The combination of probation with a restriction of liberty order , which, as noted above, was a common practice, addressed some of these concerns, but from a social

work perspective a definite need for a probation order had to be identified, and the 2 orders would not be combined solely in the cause of presenting a possibly more acceptable proposal to the court. Although most Sheriffs thought they were favourably inclined to the linking of restriction of liberty orders with probation, a small number cautioned against making the disposal "too much of a burden and so [making] breach inevitable", while a few social workers thought that if the restriction of liberty order became too onerous and was breached, the offender was likely to 'give up' on the probation order as well.

4.9 Sheriffs and social workers spoke of the need for orders to be 'achievable', and although the meaning of achievability varies from one individual to another, in most instances what was meant was that successful completion should be possible, and a major element in the idea was therefore that shorter rather than longer orders were more likely to be completed satisfactorily. A number of social workers (as well as offenders and some parents of offenders) suggested that with longer orders, an incentive to complete could be 'built in', such as a reduction in the period of daily restriction, or in the number of days on which the restriction applied, after a certain proportion of the order had been completed. The legislation allows this, but it has been a feature of only one order to date, in which the offender was allowed to spend his weekends without restriction after a proportion of the order had elapsed. Alternatively, it has been suggested that in the case of longer orders a system of automatic review could be introduced, so that those complying could have the opportunity to request a reduction in the hours to reward compliance.

4.10 In conjunction with duration, another important factor affecting the chance of completion was thought to be the careful assessment previously mentioned, "to make sure we target the correct individuals". Although many social workers, Sheriffs and older offenders considered younger people to be too immature to cope with the demands of an order, over 50% of orders have in fact been made on those under the age of 21. Despite this, it was widely thought that older offenders, if they decided to consent, had a far greater chance of succeeding, and one Sheriff thought that it might be more useful consistently to target this group for restriction of liberty orders. The problems and difficulties of working with drug addicts, often with chaotic and disorganised lifestyles, have been a constant topic of discussions. While some practitioners accepted the contractors' claim that a restriction of liberty order could help some offenders to become more ordered and organised, this was certainly not a universally held view, and the level of disorganisation was an important consideration in the assessment process. Another was the dynamics of family relationships: social workers spoke of problems created by tensions within some homes, when a family member was confined to what may be a limited living space for long periods, perhaps for the first time in years, and without the opportunity of walking away from confrontational situations. (This is a clear example of the type of problem which some social workers felt had not been sufficiently addressed in the initial training.) At least 28 breach actions, were initiated after an offender was excluded (not always permanently) from the home by a parent or partner, or when the offender felt it necessary to leave and find other accommodation Of its nature, this situation invariably arose suddenly, with the result that even when applications to vary the order to allow monitoring at another address were lodged with the court, delay was inevitable, during which time electronic monitoring was not possible. Another feature of the restriction that has caused concern to social workers, and to some parents, is that it can encourage the displacement of undesirable, and often criminal, activities (and people) from the public arena into the home. This has created tensions, particularly in relation to drug dealing and excessive drinking.

4.11 Approximately one-third of all the Sheriffs and social work staff interviewed expressed the view that, for the reasons outlined above, fewer offenders than had perhaps originally been envisaged were really suited to the order, while a smaller number attributed what some considered to be a relatively low level of use to conservatism and a dislike of the new and unfamiliar. While more than one-quarter of those interviewed thought that the restriction of liberty order had entered the routine thought processes of social workers and Sheriffs, a similar number argued that it had not become a matter of routine; and a few even thought they could detect a waning of interest in and enthusiasm for the disposal. The monthly use of the orders, shown in Table 2.1, suggests that interest in fact remained fairly steady after the initial process of implementation. There were, however, 2 issues on which there seemed to be a high level of agreement: most Sheriffs and some social work staff thought that if electronic monitoring had been made available to prevent remands into custody it would have been well received and used more extensively. Secondly, no one spoken to expressed any real concern over the capacity of the equipment to perform as claimed, although a few thought it was inevitable and "only a matter of time" before somebody developed the techniques or the necessary hardware to circumvent the system. Although a number of offenders have removed or damaged their tags, often after a family argument, only one is known to have removed it without being detected. The fact that he had done so only came to light when he was arrested for other matters; this generated understandable press interest, and an immediate enquiry by the contractors. As a result of their review of the process of fitting and installing the equipment, the tags were thenceforward routinely fitted to the ankle unless specific permission was granted for them to be fitted on the wrist; and offenders with tags on the wrist were physically monitored more frequently than the others.

Service providers

4.12 During the course of the evaluation, time was spent with the service providers in both locations, accompanying operators on visits, both routine and emergency, as well as observing the initial induction and installation process; and discussions took place with 16 members of staff. As mentioned above, the staff had varied backgrounds, but all felt that their own previous experience was relevant to the operation. A number had previous experience of working with offenders and their families, either in social work or the prison service, while those with no such prior contact with offenders maintained the view that they were providing a service both to the court and the offender, and reported very few instances when serious difficulties were encountered. All members of staff worked to maintain harmonious relations with the other agencies involved, although in some instances initial preconceptions regarding the flow of information had to be reconsidered. One area of concern that was identified was the fluctuation in the number of new orders imposed, combined with what some staff considered to be generally low usage. The variations in the workload of the contractors, coupled with the view that they could have monitored considerably more offenders, at times had an impact on staff morale. Although the existing orders, by the very nature of the requirement to monitor, created constant work, and the activities of some offenders generated a considerable workload, the period after a new order was made was invariably the most labour-intensive, both in the "installation" phase and in the immediate follow-up period. Most staff welcomed new orders because the work they generated provided an indication of the courts' interest in the new sentence; since they were on relatively short-term contracts, the contractors' staff felt some anxiety about their future employment, and about the future of the restriction of liberty order. They hoped that the

likelihood that the order would be adopted as a permanent measure, or at least be extended to other courts in the area, would increase with an increased number of orders; the less use the courts made of the orders, the greater the insecurity and uncertainty for the staff. The involvement of the private sector in the provision of the orders may also be regarded as building in an incentive for their use to increase, a point that has often been made in relation to private sector provision of prison places (Christie, 1993).

CHAPTER FIVE THE VIEWS OF OFFENDERS AND THEIR FAMILIES

5.1 This chapter gives an account of the views expressed by some offenders, and their parents and partners, about their experiences of restriction of liberty orders. Discussions were held with a total of 35 offenders and 19 parents/partners during the course of the evaluation. These took place at varying stages of the order; in some instances it was near the beginning, on 2 occasions the first day, while for others it was after months had elapsed, and sometimes was close to the end of the restriction period. Unlike the professionals, who do not believe that sentences can be predicted accurately, most offenders and their family members who were interviewed were convinced that the alternative to a restriction of liberty order would have been a custodial sentence, and most offenders claimed to have been told this in court: "the judge said I wasn't learning any lessons and was heading straight for the jail"; "the judge said if I didn't want the tag *and* probation then I could go to jail".

5.2 This group also produced more consensual views on the acceptability of the disposal; not surprisingly, since they thought the alternative would have been custody, the majority approved of the order and thought they would agree to another. A small number expressed more doubts: one was "not sure", as 4 months had been "a long time and it wasn't easy", while another concluded that:

> "The 3 months was harder than I thought it would have been. I would only agree to one again if a prison sentence was a real probability."

5.3 Another, on a 6-month order, said that it was too easy to give in to the temptation to go out, that he had originally been "shocked" when he heard the hours of restriction and the duration of the order. Although this young man lived with his parents, he thought that "someone" should provide domiciliary support: "no one comes round to talk about the problems, this is very hard". He was adamant that he would not agree to a restriction of liberty order again, claiming that he would rather "go back" to jail; he ultimately withdrew his consent and was placed on a 12-month probation order.

5.4 Another young man said at the time of interview that although originally he had "thought it sounded all right", he was positive that he would not agree to comply with the terms of the order for the remainder of its term, as he intended to "come in and go out when I want to". His 6-month order expired while he was remanded in custody following breach action. However, despite his claims and protests that he would "rather be in jail", he did agree to be made the subject of a second (5-month) order.

5.5 In considering the question of informed consent, most of those interviewed had some understanding of what was to be involved, having seen TV and press publicity, and a large number knew others who had been 'tagged'. However, there was uncertainty about the scope of the equipment, and the young man who thought initially that it meant "the police would know where you were 24 hours a day" was certainly not alone. One mother, who thought that her son had done better on the order than she could have imagined, as she had expected him to give up, particularly at Christmas and New Year, said that she agreed to the order without really knowing what it might entail, or giving it much thought, solely to help prevent her son from returning to prison. She echoed the views of some other parents when she stated that following his previous prison sentence he had "come out last time with a worse

drug problem than when he went in", and she admitted that when the 3-month restriction of liberty order was imposed she had thought:

> "Oh dear, what have I let myself in for...but in fact it all went fairly well with no real problems."

5.6 Offenders' views of the justice and reasonableness of their orders varied. One first-time offender thought that the criminal justice system had over-reacted to his offending, and that the order had never been intended for people such as himself, but he knew others "on the tag" who were, in his view, appropriate cases. Another complained that he had received a 6-month order because he was one of the first in the area to be tagged, and that "plenty since then have only got 3 or 4 months for worse charges" . Another thought his 11-hour period of restriction excessive, as he was "not a mugger or housebreaker", but philosophically conceded that he had to "abide by what he [the Sheriff] said in court". A young man who was serving a 12-month order said that he thought it was "a bit much", especially as his solicitor had apparently told him to "expect 6 months", but as he was convinced the alternative would have been to "go back to prison" he still thought he had made the right decision in agreeing to an order. Another offender, who worked 12-hour shifts and had a 10-hour period of restriction, complained that the most difficult aspect was "managing to go and have a haircut"!

5.7 Interviewees who had received 12-month orders tended to feel that their order was "a bit heavy", but others on shorter orders described their orders as "fairly lenient", or felt able to say that "3 months isn't long"; and 2 offenders who had successfully completed orders of "only" 2 months felt sure that they would have a less positive opinion if they had been restricted for a longer period. Some admitted that they found their order very difficult to complete, and spoke of the problems of being confined with parents, and of the temptations they felt because they were not physically restrained: "at least in the jail you know you can't go out, here you can...that's the problem". One offender thought that if it had not been for his wife and children he would have taken the tag off and taken his chances with another term in prison. In fact he ultimately left the family home, and the order expired when he was not being monitored. Another thought he had only been successful through the support of his parents, and particularly his mother, who gave up her job to help him cope with the terms of the order. Offenders who were interviewed at the beginning of their period of restriction sometimes had an over-optimistic perception of what was to come, and could think only of their pleasure at receiving a non-custodial sentence. Of the 2 offenders interviewed on the first day of their orders, one removed his 'tag' in the first week, and although it was replaced, he was remanded in custody on other matters after 3 weeks and subsequently received a custodial sentence The other completed a 3-month order but was also subject to breach action for tampering with the 'tag' and for accumulated time absences.

5.8 One offender's father commented that while the restriction of liberty order was a good concept, he felt the hours of restriction were too lenient: undesirable associates were more likely to come to the family home, and it placed a burden on the family: "we are now unpaid warders". He concluded that although he was keen for his son to be given this chance to "wipe his slate clean and get all his crime behind him", because of the impact on the rest of the family he did not think it was an opportunity that would be available again:

> "If he goes back to his old ways with 'foreign substances' then I will probably say, "Do your time in jail".

5.9 Parents of another young man spoke of the responsibility they felt under to attempt to ensure their son was in the house for the start of his restriction period, and that they would "go out looking for him" when the start time was approaching. It is clear that in such cases some parents experienced an onerous sense of responsibility for the success of the order, which some accepted in a positive spirit, and others with a sense of strain. In these cases, the supervisory role which in other community penalties belongs primarily with the Social Work Department had in effect been relocated into the private sphere.

5.10 Other parents, however, thought the effects of the order were very much as intended, without imposing an excessive burden of responsibility. The father of one young offender stated:

> "With this he has the day to go out and have a few pints and a wee bet, and then he comes back here for 5.30 and stops in for the night. It's good; we all know where he is, I don't have any problems with it at all."

And the mother of another spoke of the reassurance she felt when she woke up in the mornings "because I know he's here in his bed".

5.11 A minority of offenders suggested that the order had had a broader, more general impact on their behaviour. A few claimed that they had virtually stopped going out at all - "it's too much hassle to make sure I'm back here on time" - and therefore removed themselves from offending situations, while others thought that it made them consider their actions, think about where they were and what they were doing: "it teaches you a lesson and makes you think about things". One young offender, who was serving his second order, thought that it gave him a credible reason for not associating with some of his former friends, and he also welcomed the opportunity to spend more time with his young son. However, as already mentioned, the displacement of undesirable, and sometimes criminal, activities into the home was also reported, and one offender stated: "I just sit here and get drunk, I don't need to go out for that".

5.12 All but one of the offenders interviewed spoke in positive terms of their experience of the staff who visited to install the equipment and at intervals thereafter; the one negative account came from a young woman who had just been discharged from custody and thought it unreasonable that she was expected to pay attention immediately afterwards to an explanation of how the monitoring equipment worked. The contractors' staff often had frequent contact with offenders during the first weeks of an order, before they and other members of their household had become fully familiar with the equipment: during this time the staff often had to visit in response to apparent tampering with the equipment, such as could result if the home monitoring unit was moved, or the offender decided to test the tolerances of the 'tag' . As a matter of routine, the staff made monthly visits to offenders who had the tag on the ankle, and weekly visits to those with it on the wrist. They also, of course, would visit in response to any apparent problem, strap tamper alerts (suggesting that the offender might have tried to remove the tag), or unauthorised absences. It was common for several different members of staff to visit an offender in the course of an order, because of the need for 24-hour availability and the shift system this entails, which meant that a consistent personal relationship did not normally develop; but this would arguably be inappropriate, and, as in the English trials, offenders generally reported that the staff were courteous and helpful, and explained the workings of the monitoring system clearly. A small number of the

offenders did make regular use of the 24-hour telephone contact to ask general questions, not necessarily specific to the monitoring contractors, and were redirected when appropriate; and in a few instances offenders called "for a chat" when feeling isolated and lonely. Overall, despite the stresses some experienced, both offenders and their family members were in little doubt that a restriction of liberty order was preferable to imprisonment, and one man, who was in the minority group of those with an order of more than 6 months duration, summed up the feelings of most of those interviewed:

> "I treat this as a bonus. I can sleep in my own bed, eat the food that I want and watch what I want on TV....the Sheriff made it clear that I was facing a jail sentence."

5.13 Of the 35 offenders interviewed, 9 had their order disrupted or terminated by a period in custody, and another 6 left home for some time in the course of the order as a result of domestic difficulties. In general, offenders and their family members were interviewed at a point when the difficulties that emerged later in some cases had not yet manifested themselves. The accounts from interviewees, therefore, may tend to present a picture of the impact of the orders on domestic life that under-emphasises the stresses they can cause. It is clear, however, that, particularly in the case of young men living in their parental homes, the order could be viewed as a welcome support by worried parents. Contrary to the fears of some of the practitioners quoted in Chapter 4, and of some critical commentators, electronic monitoring does not inevitably lead to increased strain on family relationships, though there is no doubt that it does in some cases.

CHAPTER SIX THE RESULTS OF RESTRICTION OF LIBERTY ORDERS

6.1 After 14 months of the pilot, 152 restriction of liberty orders had been imposed by the 3 courts. By the end of February 2000 (at least 4 months after the last order in the sample could have been imposed), 103 of the orders had been completed, with varying degrees of success, or had expired while the offender was not monitored, 40 orders had failed and 9 were still ongoing, although only 7 were being actively monitored. Table 6.1 illustrates the position of all the orders at the end of February 2000.

Table 6.1 Outcomes of orders

	Completed or expired	Failed	Ongoing	Total
Aberdeen	32	19	2	53
Peterhead	4	1	0	5
Hamilton	67	20	7	94
TOTAL	103	40	9	152

6.2 If the 9 orders that had not reached a conclusion are excluded from the calculation the overall completion rate is 72% (63% in Aberdeen and 77% in Hamilton), similar to the 75% achieved in the first year of the English trials (Mair and Mortimer, 1996). With respect to the figures for Aberdeen, the 'completed/expired' category includes 7 orders that expired while the offender was in custody, of which 2 were ultimately revoked by the court, and in another case the offender had been suspended from his hostel and was temporarily homeless. In the 'completed/expired' category, the figures for Peterhead include one order that expired while the offender was remanded in custody, and those for Hamilton include one offender who died one month before the completion of his 5-month order, and 10 who were not being monitored at the time of completion, as a result of accommodation difficulties or a reception into custody.

6.3 It is clear that the notion of completion of a restriction of liberty order is not simple: 11 of the 103 orders expired while the offender was in custody, so the individual was not being monitored, at least not electronically, while a further 8 were not being monitored at the date of completion for other reasons. These cases could arguably be excluded from the completion figures, but there are other cases that present a greater problem for classification, involving offenders who ostensibly did complete their order, but who also had a substantial period during the course of the order when they were not monitored, either because they were in custody or as a result of domestic difficulties. What distinguished these from the 'failed' category is that the periods in which monitoring lapsed arose primarily from factors beyond the immediate control of the offender - arrest, imprisonment, or eviction from home. The periods in question varied from one week to 16 weeks - the latter in the case of a young man subject to a 6-month order whose family moved to a new address; although the court procedure to consider this change of address was initiated in May 1999, it had not been completed by the end of February 2000. Among these cases, the proportion of the original order during which the offender was not monitored varied from 60% (the case mentioned above) to 4% - one week of a 6-month order. Of the 103 completed orders, 35 were disrupted by periods when monitoring did not take place; and this is taking into account only

'substantial' interruptions, not the minor lapses arising from events such as an overnight remand in custody prior to an appearance in court on the following day, or brief absences which were dealt with in accordance with procedures established by the national advisory group at the beginning of the pilot, and contained in the handbook (Social Work Services Group, 1998). That many offenders subject to a restriction of liberty order continued to come to the attention of the police during the currency of the order is not surprising, and at least half the offenders had brief periods in police custody, either helping with inquiries or prior to a court appearance, which obviously affected their ability to comply with the terms of the order. A total of 41 orders were disrupted or terminated by a longer period in custody, on remand or under sentence; in some cases there were 2 or 3 such periods, which ranged in length from one week to 7 months. Any community sentence is of course vulnerable to disruption as a result of action on earlier charges, making the implementation of a consistent plan, and the assessment of success or failure more complex than is sometimes supposed.

6.4 Completion of the order was, for many, not an easy or straightforward process, and 46 of the 103 orders that were formally completed only reached an end after action for breach had been initiated at the relevant court; another 19 offenders received formal warnings in accordance with the rules and procedure stipulated in the handbook. Both monitoring contractors investigated every apparent violation, and while the court was immediately notified in the event of a serious violation, lesser violations were recorded in accordance with the instructions developed by the advisory group and, if the individuals concerned did not have an acceptable and legitimate excuse, they were cautioned that further violations could lead to the instigation of the breach procedure. All requests for an authorised absence were verified, for example by confirming with a relevant official - police officer, court clerk, doctor - the times of arrival and departure, and when possible also by actual monitoring with a portable unit to confirm electronically that the 'tag' was present, for example, in a hospital. Records indicate that only 11 offenders complied with their orders without any unauthorised absences at all; one of these successfully completed a 12-month order, while another young man completed a 12-month period with only one violation, of 3 minutes! The nature of the breach obviously varied across cases: for some breach meant an accumulation of small but regular time violations, for others it arose from domestic disputes which sometimes ended with the departure of the offender from the authorised address, damage to the monitoring equipment, or both. A small number of offenders, with day-time orders, applied for permission for regular authorised absences: these were for events such as collecting and consuming chemists' prescriptions, attending court, meetings with social workers, and keeping medical appointments. One such offender said, however, that he had accepted the order to the extent that "I don't even bother to try to get doctors' appointments during the hours" of restriction. On the other hand, others have sought permission for unplanned events such as taking their dog for emergency treatment or attending a residents' meeting about the proposed demolition of a tenement; when necessary, the contractors have clarified with the Scottish Executive which absences could be approved. As stated above, all absences were investigated by the contractors, and all manner of excuses have been advanced: numerous late buses, broken down cars and taxis, chance meetings with old friends and family members, assaults and acts of kindness. Similarly, when strap and equipment violations have been investigated, the reasons put forward have included interventions by inquisitive children and dogs, or drunken friends, meticulous cleaning, and other improbable events. One man with over 50 recorded incidents of violation produced explanations that included:

> "The police called thinking I had done a job last night. They searched the house, they didn't find anything. I left to go to the chipper as I was

starving."

"I had a look (outside) and kids were throwing stones at an old disabled woman. I went out to sort it out, made sure she was OK."

"I went out for a walk as my head was done in."

"I was at a friend's house, I can't remember what time I went... I've had a few beers today."

"I was in town and lost all track of time. I have no excuse"

6.5 A small number of offenders have applied for the duration of the order, or the specified time of restriction, to be reviewed; one man eventually appeared in court 3 weeks before the original 8-month order was scheduled to expire, when the Sheriff decided to discharge the order, and an offender with a 5-month restriction period also had his order discharged 3 weeks early; one young man had completed almost 6 months of a 9-month order when the court agreed to vary his restriction to allow him more free time at the weekends; one offender had his 9-month order reduced to 6 months; and 2 successfully applied to have time 'off' for specific events, such as going away for a long weekend. One young offender who had free weekends explained that although he very rarely ventured out at night, "it's nice to know that I can if I want".

6.6 A total of 87 out of the 142 offenders involved (61%) have been reported to the court for breach action, some on a number of occasions, and at the end of February 18 outstanding breach actions were awaiting an outcome. As a result of the actions for breach that have been concluded, 30 individuals received a custodial sentence (on 7 occasions after the term of the order had expired), and 4 others were admonished or fined for the breach but received custody for other matters. The lengths of the custodial sentences varied from one month to 18 months, the most common sentence, imposed in 13 cases, being of 3-months. In total 13 fines have been imposed, ranging from £50 to £300; on 8 occasions the order has been extended or a new order has been imposed; 6 probation orders have been made, 2 of them also including a requirement of unpaid work; in 2 cases sentence was deferred with the requirement that the offender be of good behaviour; and in 25 instances the offender has been admonished or the decision was made to take no further action.

6.7 The 40 offenders classified as having failed to complete their orders have either formally withdrawn consent, or have effectively done so by failing to make themselves available to be monitored. In 2 cases this meant literally not being available from the outset even to be fitted with the tag: one of these offenders eventually received a 3-month custodial sentence, in place of a 6-month order, and the other case has yet to be resolved. Of this group of 40:

- 23 received a custodial sentence as a result of breach action
- 2 received a custodial sentence on unrelated matters and the restriction of liberty order was revoked at the same time
- 5 were made subject to probation orders - one including unpaid work
- 1 was fined £120 and the order was revoked
- 3 were made subject to new orders
- 1 case involved no further action

- 5 cases are yet to be resolved

6.8 Almost a quarter of actions for breach occurred within the first week of the order, and a similar number were initiated in the following week, so that almost half of all the initial breaches - obviously some individuals carried on with this pattern of behaviour later in the order - occurred in the initial 2 weeks of the order. This may reflect a testing out by some offenders of whether the information they have been given in court, by the assessing social worker, and finally by the monitoring staff, is a true account of what will happen - whether the equipment really is so sensitive and accurate that it detects all attempts to tamper with it, and whether the staff really do respond promptly to all violations. For some it may also reflect the frustration and difficulties they very quickly encounter when they begin to appreciate what the order entails. As reported above, some offenders, and parents, did not comprehend the reality of the restriction, and despite clear instructions still went out "to get some tobacco....some paracetamol....to talk to my neighbour", etc. After the first 2 weeks of the order, there is another discernible increase in initial breach reports in the third month, when some form of fatigue may have set in, and a small number broke the restriction in the last week of the order, perhaps in the belief that a breach of the requirements so late in the day would be ignored.

6.9 Practitioners interviewed for the evaluation agreed that the proportion of offenders who were reported to court for breach of the order was high, particularly in the early stages of orders, but disagreed on the possible interpretation of this result. One Sheriff expressed concern at what he quite correctly perceived as the substantial numbers breached in the first few weeks of an order, and thought that this could reflect a failure in the conception or implementation of the orders; another thought that the same figures indicated that the order was "obviously not a soft option": it was explicitly a punishment, and offenders might at times have to struggle to meet its requirements, but it had the potential to be of benefit to some individuals.

6.10 Table 6.2 illustrates the outcome, or status, at the end of February 2000, of all the 152 orders in relation to the age of the offender at the time each order was imposed. The view of many practitioners that younger offenders are less likely to be able to meet the demands of the orders receives support from these figures: of the 30 offenders aged 26 or over only 2 have failed to complete, while 25 have so far been successful; a completion rate of 93% (if the 3 'ongoing' are excluded from the calculation), while the completion rate for the small number of offenders aged over 30 years is even more impressive. The corresponding figure for the under 26 year old offender is 67%.

Table 6.2 Completion and failure, by age of offender

Age	Completed	Failed	Ongoing	Total
16 - 20 years	53	26	3	82
21 - 25 years	25	12	3	40
26 - 30 years	12	2	2	16
31 - 35 years	5	0	0	5
36 - 40 years	3	0	0	3
41 plus	5	0	1	6
TOTAL	103	40	9	152

6.11 Table 6.3 shows the completion and failure of orders with reference to offenders' previous criminal history at the time each order was imposed. The completion rates (disregarding ongoing cases) for offenders with no experience of custody (86%) and with no previous convictions (78%) are higher than for offenders who have served a custodial sentence (70%) or have been remanded in custody (56%). The relationship between criminal history and likelihood of completion is therefore in the direction one would expect, though the size of the difference is too small, and the numbers involved too few, for statistical significance.

Table 6.3 Completion and failure by previous criminal history

	Completed	Failed	Ongoing	Total
previous custodial sentence	63	27	5	95
previous remand in custody	9	7	1	17
previous community disposal	24	4	3	31
no previous convictions	7	2	0	9
TOTAL	103	40	9	152

6.12 Table 6.4 shows the number of orders of different lengths and their status at the end of February; the figures do not correspond with those in Table 3.4, which recorded the initial length of orders, as the length of some orders was subsequently varied by the court. The completion rate for orders of 3-months or less is 78%, although even very short orders are not necessarily completed. If we again exclude the 'ongoing' figure from the calculation the figure for orders of 4 to 6-months' duration is similar at 76%, but the figure for successful completion of the small number of orders of more than 6 months is 40%. We may reasonably expect this completion rate to improve slightly as more of the longer orders reach their natural end, since breaches are more likely to occur in the early rather than in the later part of an order, and 7 of the 9 ongoing orders are for more than 6 months. Nevertheless, the figures seem to indicate that, as one would expect, longer orders are less likely to be completed than shorter orders; as well as being inherently more difficult in terms of compliance, longer orders are more likely to have been imposed on more serious and persistent offenders, whose ability and willingness to comply may well have been below average.

Table 6.4 Results of orders by length

Length	Completed	Failed	Ongoing	Total
1 month	2	1	0	3
6 weeks	2	0	0	2
2 months	7	1	0	8
10 weeks	2	0	0	2
3 months	37	12	0	49
4 months	13	2	0	15
5 months	5	3	1	9
6 months	27	9	1	37
7 months	1	0	0	1
8 months	1	4	1	6
9 months	3	3	2	8
10 months	1	0	0	1

12 months	2	5	4	11
TOTAL	103	40	9	152

6.13 Table 6.5 shows the number of orders made, completed and failed for different types of offence, classified in the same way as in Table 3.6, and therefore only counting the first or obviously most serious offence. Although the numbers in each row are small, the table suggests that successful completion was less likely in cases where the main or first offence was one of dishonesty than in cases involving violence, public order offences, or drug offences; the figures are respectively 66% and 83%. (excluding the 'ongoing' group). This tentative finding could be explained by the characteristics of offenders convicted for dishonesty: they were often portrayed as drug users whose offences were motivated by the need for money to finance their habit, and might well have the chaotic life-style identified by many social workers as reducing the chances of successful compliance with the discipline of a restriction of liberty order. On the other hand, offenders who received an order specifically for drug-related offences all completed their term of restriction successfully; it is interesting to note that this group was mainly made up of older offenders, identified by social workers and Sheriffs as better able to cope with the demands of an order: one was aged 20, but 5 were over 26, and 2 were over 40.

Table 6.5 Completion of orders by offence type

Offence	Completed	Failed	Ongoing	Total
theft by housebreaking	19	11	0	30
theft	34	17	1	52
other dishonesty	2	0	0	2
breach of the peace	13	3	1	17
assault-robbery-weapons	16	5	3	24
road traffic act offences	10	4	4	18
misuse of drugs	7	0	0	7
other	2	0	0	2
TOTAL	103	40	9	152

6.14 Another factor that could plausibly affect the likelihood of successful completion is the availability of support from the Social Work Department. In fact, only one offender interviewed mentioned feeling a need for some support (a different finding from that in the trials of curfew orders in England); and although, as discussed above, two-thirds of offenders who received restriction of liberty orders were also on probation, their completion figures are not significantly different from those for offenders whose orders were 'stand-alone': 64% of those who completed their orders successfully, and 70% of those who did not, had the additional support (or restriction) of a probation order. It is possible that any helpful effects of probation were cancelled out by the characteristics of the offenders concerned; offenders on both types of order may have tended to have more problems associated with a reduced likelihood of completion than those subject to restriction of liberty orders alone.

6.15 For the offenders who failed to complete, the Social Enquiry Reports and restriction of liberty order assessments fall into 3 general categories (information was not available for one individual):

- 17 cases where the social worker made a positive recommendation in favour of an order, with comments such as:

  > "The imposition of a probation order coupled with a restriction of liberty order would allow controls to be placed on him, as well as allowing ongoing work to be undertaken."

- 18 cases where the social worker considered the order to be feasible, but did not particularly recommend it, or expressed some reservations:

  > "If the court wishes to use such a disposal the writer could not uncover any reasons why there would be any difficulties for the family."

  > "His mother had reservations about his ability to co-operate....but after 3 short periods on remand he is now indicating a greater willingness to comply."

- 4 cases where the social worker thought successful completion unlikely, and provided comments such as:

  > "His mother thinks that to restrict him to her home would create unbearable pressure. His intentions are always good, but he has not been able to sustain any efforts to change his lifestyle."

  > "The writer does not feel optimistic that he would show any commitment to another community based disposal."

It does not seem, therefore, that failure to complete can generally be attributed to a failure on the part of Sheriffs to attend to the recommendations of social workers.

Female offenders

6.16 The outcomes for the 9 females made subject to restriction of liberty orders should be explicitly noted. The figure of 9 represents 6% of all orders made: according to provisional figures from the Scottish Executive for 1998, females accounted for 11% of all accused persons in the 3 pilot area courts. The discrepancy (if it is more than a matter of chance) is likely to have arisen from the tariff position of restriction of liberty orders, since female accused persons are less likely than males to have committed serious offences or to have substantial previous records. Of the 9 women, 6 successfully completed their orders; 2 withdrew consent, (one received a 2 month custodial sentence and the other is awaiting a decision by the court), and one was sentenced to custody for unrelated offences. Four had been convicted of offences of dishonesty, 2 of misuse of drugs, 2 of assault, and one of breach of the peace. Some social workers have argued that the order could be beneficial to women as an alternative to custody, but others believe that the measure is likely to be relatively more restrictive for women, because they are more likely to have unshared domestic responsibilities, and that it could weigh especially heavily on single mothers.

Proportional use and tariff position of orders

6.17 On the question of the place of the restriction of liberty order in the range of disposals available, the views of the sentencers, outlined in chapter 4, indicated that while they mostly saw it as a serious alternative to custody, the ultimate sentence imposed if a restriction of liberty order was not considered appropriate was not necessarily a period of imprisonment. In the sample of 218 cases in which a restriction of liberty order was considered by the court but ultimately not made, referred to in chapter 2, 39% actually received a custodial sentence. Figures for custodial sentences for the 3 courts over the previous 3 years, using provisional data for 1998, are reproduced in Table 6.6[1].

Table 6.6 Sentencing in Sheriff Summary Courts, all crimes and offences

	Percent given custody			Number given custody		
	1996	1997	1998	1996	1997	1998
Aberdeen	14	17	15	687	815	769
Hamilton	11	10	10	554	461	411
Peterhead	13	10	13	118	105	126

6.18 As can be seen, some fluctuations in percentages and numbers occur from year to year, although the Aberdeen percentage figure for the use of custody is consistently above that of the other courts. The 1998 figures include the first months of the pilot, when the Peterhead court made 3 of the 5 orders it has made so far; but the availability of the new measure could not be expected, in so short a time, to have had a discernible impact on the use of custody. The 1998 figures suggest that in the first months of the pilots the restriction of liberty order accounted for approximately 2% of all disposals in the Aberdeen court (which amounted to 15 individuals made subject to orders), approximately 1% in Peterhead (3 individuals), and 3% in Hamilton (19 individuals); and, assuming no radical change in the volume of the courts' business, the monthly figures given in Table 3.1 do not suggest that the percentage figures for 1999 will prove to be very different (although the Peterhead figure is likely to be even lower)[2]. Restriction of liberty orders have, then, remained the disposal of choice in only a small minority of cases before the courts, and at this level of use (and given what can be inferred about their place in the sentencing tariff) could only have a marginal impact on the use of custody.

6.19 Extrapolating from the pilot schemes' figures, and adapting the Scottish Executive's data to produce a figure for the number of individuals sentenced rather than the number of offences, there would have been about 760 orders in 1998 if restriction of liberty orders had been available to all Sheriff courts, and 800 orders in 1997 (assuming that the order accounted for 2% of all disposals). If the Hamilton figure of about 3% was used, the numbers would be 1135 and 1200 for the 2 years. The actual experience of the pilot courts suggests that the figure would be within this range; the above calculation applied to the 3

[1] Until shortly before publication, the 1998 figures were the latest available. However, recent provisional figures suggest that there was very little change in the percentage use of custody in each of the study courts in 1999.

[2] Provisional figures on court disposals throughout the first 14 months of the pilot were made available by The Scottish Executive shortly before publication. They suggest that these early estimates were accurate - between September 1998 and October 1999, RLOs accounted for 1.7% of disposals in Aberdeen, 0.5% in Peterhead and 2.6% in Hamilton.

courts produces a range (using the same 1998 figures) of between 104 and 157, while the actual number of orders in the year to October 1999 was 140. We can suggest that from the experience in the pilot courts the number of orders that could be expected to be made, at least in the initial phase of any national extension, would be approximately 1000, with the busiest courts such as Glasgow and Edinburgh making approximately 125 each. If the orders were used with a similar conception to that of the sentencers in the pilot courts of their place in the tariff, this could produce a national reduction of about 400 in the annual number of custodial sentences (though about 100 of these cases might ultimately receive prison sentences, following breach action).

CHAPTER SEVEN COSTS

7.1 In a press release in December 1997 announcing additional funding for non-custodial sentences, the then Minister for Home Affairs Henry McLeish stated that £1.5 million had been made available "for each of the next two years" to set up the pilot schemes. Not surprisingly, some of the people interviewed expressed the opinion that "this is an expensive resource", and those who obviously had not seen any published figures thought that "this must be costing a lot". A number of interviewees, particularly in the Social Work Departments, certainly thought that the resources could have been better used, for example in preventive work with such groups as drug addicts and young women at risk of developing criminal careers.

7.2 The 2 contractors involved in the pilot had different cost and pricing structures for their operations, but for each there was a fixed cost element plus a variable. In awarding the contracts for the pilots to 2 service providers, the Scottish Executive wished to obtain useful comparative information about actual service operation, while recognising that costs would differ between the 2 locations, and that unit costs would be affected by the number of orders made.

7.3 Throughout the pilot the monitoring centres were not operating at anything like full capacity; this was particularly evident in Aberdeen where the staff were often only actively monitoring 10 or 12 offenders, as not only were fewer orders made in the north-east, but a greater number were for shorter durations - 60% were for 3 months or less compared with 31% in Hamilton. If, however, we assume a higher level of use, such as might be expected were the orders fully integrated into the range of sentences, and therefore assume that at any one time 50 offenders were being monitored by each centre, and that this would not require the appointment of any additional staff, we arrive at estimated unit costs of £2500 for a 3-month order and £4860 for a 6-month order, the 2 sentence lengths most commonly imposed. The initial induction process and the installation of equipment, and its final removal, are inevitably time-consuming, and this element is proportionally less significant in a longer order than in a short one. These figures are approximations and assume that all orders run for the intended duration. They are based on annual running costs, and the many and varied additional costs that some orders may entail, such as those associated with preparing for breach actions, 'retagging' someone after custody, or installing the equipment in another address after a domestic dispute, are included in each average figure. (As we have seen, it was only in a minority of orders that such costs were not incurred.)

7.4 After the monitoring centres have been established and start-up costs have been met, the requirements of shift-work and agreed response times continue to make electronic monitoring a labour-intensive form of supervision. The equipment needed to provide 24-hour coverage could obviously be used to monitor greater numbers than were supervised during the pilots, but economies of scale in respect of staff are less readily identifiable: the staff who monitor the computer screens at the home base could certainly have worked with a larger number of offenders, but the contractually required response times, both in initial installation and in violation investigation, mean that enough 'field' personnel will always need to be available for unplanned events.

7.5 The restriction of liberty order is generally considered to be an alternative to (probably short) periods of imprisonment, and it was presented as such by the Minister, Henry McLeish, soon after the launch of the pilots:

> "There are many at the lower range of the offending scale whose behaviour can be addressed - while ensuring public safety - using tough alternatives to custody like electronic tagging."

7.6 While some social work staff doubted that the new measure was seen by Sheriffs in such narrow and specific terms, it was certainly used in some cases where custody was the most probable alternative. It is worth noting, however, that the new order was used more often as a complement to a probation order than as an alternative to it: two-thirds of monitored offenders were also subject to probation orders. From the comments of some social workers, the restriction of liberty order might prove useful for offenders who are no longer able or willing to co-operate with orders involving contact with social work, but there is no evidence from this evaluation that would support or undermine such a claim.

7.7 The Scottish Executive figures available estimate the average cost of a 6-month prison sentence in the year 1998-99 as £13,456, and the average cost of a standard probation order as £1450. Using the projected figures of £2500 for a 3-month order and £ 4860 for a 6-month order, which assume a higher proportional use of the restriction of liberty order than was found in the pilots, the order would certainly be cheaper than a short prison sentence, while remaining more costly than the average probation order, which would provide less intensive supervision and probably less certain enforcement, but over a longer period. It should be remembered, too, that these figures relate only to the cost of the electronic monitoring itself, and not to other costs such as those incurred by the agencies involved in breach actions, or the additional social work costs involved in preparing assessments specifically for restriction of liberty orders. If the order were made nationally available and became established as part of the sentencing framework, such assessments would presumably become a routine element of Social Enquiry Reports, thus removing the extra cost burden.

7.8 Supposing that restriction of liberty orders were made available to Sheriff Courts on a national basis, the majority of the anticipated 1000 orders would be made in courts in the central part of the country, and could probably be served by a monitoring centre located there, with outworkers in satellite offices or possibly operating from home. However, local liaison with the court, the Procurator Fiscal and Social Work Department would remain important for the operation of electronic monitoring, and judgements about staffing levels would need to take account of the continuing importance of local communications and the face-to-face contact on which trust is likely to depend: one lesson of the pilot schemes might be that human relations matter as much as technical developments. Taking this into account, and assuming an equal number of 3- and 6-month orders, the annual operating cost of restriction of liberty orders can be estimated at £3,680,000, the equivalent of approximately 274 prison terms of 6 months. If the orders replaced prison sentences in 40% of cases in which they were made, the number of prison sentences imposed at the point of initial sentencing could be reduced by a total of 400. This could produce an overall cost saving ranging from approximately 1.7 million pounds if the term in prison would have been for 6 months, to a little more than one-third of a million pounds if the displaced prison terms consisted of an equal number of 3 and 6 month terms.

CHAPTER EIGHT CONCLUSIONS

8.1 In several respects the piloting of restriction of liberty orders can be regarded as having demonstrated that they can be successful. The monitoring equipment itself worked well, in that there was only one case in which a 'tag' was removed without detection. The contractors' staff were found helpful and efficient by the great majority of offenders and their families, and they responded promptly to the demands placed upon them, both in the installation of equipment and in responses to potential violations of the restriction

requirements. The new measure was used broadly as had been envisaged, as a high tariff community sentence which in some cases was imposed when the most likely sentence, had the order not been available, would have been a custodial one. Sheriffs thought that the new order was worth considering as an option in cases where they might be thinking of a prison sentence or another community penalty that would impose substantial demands on the offender. Social work staff expressed more diverse views, but generally thought that the order could be useful insofar as it genuinely replaced custodial sentences. Offenders and their families generally responded positively to the making of an order, since they invariably believed that the alternative would have been custody, and most regarded restriction of liberty as preferable.

8.2 In other respects, however, the pilot orders have been less successful. The contractors' staff never had to deal with enough cases to work at full capacity. This was also the experience of the first year of curfew orders in England and Wales (Mair and Mortimer, 1996), and perhaps is to be expected of any pilot of a novel measure, but it remains the case that the contractors were resourced to deal with a substantially greater number of orders than were actually made. As a result, the unit costs of the order were higher than might have been expected, and while a higher proportional use of the orders would have produced some economies of scale, the rigorous requirements imposed on the contractors for a quick response to new orders and to suspected violations, with 24-hour cover, mean that the operation of electronic monitoring would remain labour-intensive from the contractors' perspective even if it were to become more widely used by courts. In about two-thirds of all cases the orders were combined with probation, so that there was no cost saving to the Social Work Departments in those cases.

8.3 There was no consensus about the type of offender for whom electronic monitoring was most appropriate. The majority of orders were made on young men, although practitioners tended to think that older offenders were more likely to respond positively. Heavy drug use and the chaotic way of life often associated with it were generally seen as factors that made successful completion of a restriction of liberty order unlikely, thus potentially removing from its scope a substantial group of offenders. Although in formal terms the majority of orders that had ended by the time of writing had done so satisfactorily, it was rare for an order to be completed without any violation of the requirements, and in a substantial proportion of cases the course of the order was seriously disrupted, which sometimes meant that monitoring was suspended for weeks or months. The most common reasons for these disruptions were further court appearances, arrests, and periods in custody, and problems arising from domestic difficulties or insecurity of accommodation.

8.4 Although families tended to be glad that a restriction of liberty order had been made rather than a custodial sentence, it was clear that in some cases the order had imposed serious strains on family relationships. To a far greater extent than other community sentences, restriction of liberty orders are likely to have an impact on the innocent as well as the guilty (in this respect resembling prison sentences, which often have an adverse effect on the prisoner's relatives). Some parents of monitored offenders felt that it was unreasonable that they, rather than a public agency, should have to take responsibility for encouraging compliance with the order's requirements. Nor is it the case that compliance with an order guarantees abstention from offending. There are offences that can conveniently be committed from one's home, notably drug-dealing, and day-time restrictions in particular, while potentially justifiable as a form of incapacitation short of custody, are more likely to promote exclusion from lawful activities (especially participation in the labour market) than

to encourage inclusion and integration. This line of thought may have contributed to the view of some social work staff that the restriction of liberty order was purely negative in purpose and effect, providing little opportunity for work aimed at constructive change and development. In the light of this, it is worth considering the view expressed in the course of this evaluation by some practitioners, that if electronic monitoring has a place in the criminal justice system it should be in the context of remands on bail, as a way of making more effective the various conditions to which the granting of bail may be subject. In this context, there is no expectation of help, and the principle of restricted liberty is long established; furthermore, if it were carefully applied, such a power would replace custody in a higher proportion of cases than restriction of liberty imposed as a sentence is likely to do. For these reasons, the use of electronic monitoring in the context of bail could prove less problematic and more appealing to courts than in the context of a sentence.

8.5 Restriction of liberty orders, and the electronic monitoring associated with them, raise some important issues for policy. Perhaps the most obvious is the question of the place of the private sector in the provision of court penalties, a question which is familiar from debates on prison privatisation (Christie, 1993). We have noted that the monitoring staff had the strongest stake of any group interviewed in the acceptance and wider adoption of the new measure. Most immediately this was because their jobs depended on it, but their enthusiasm raises the more general issue of whether it is desirable that any private company should have a vested interest in the expansion of a particular penal measure. This is not to suggest that judicial decisions could be directly influenced by the need of a private company to make a profit, but an immediate vested interest of this kind opens out possibilities of lobbying and campaigning that could be regarded as unlikely to increase the quality of debate on criminal justice policy A second issue concerns the effective privatisation, or displacement into the domestic sphere, of responsibility for the implementation of a court order, which seems to entail an extension of the state's expectations of families whose wider implications deserve consideration, a point which has arisen in other jurisdictions. Thirdly, there is the issue of how far a community sentence can be successful if the person subject to it has only negative reasons for compliance: probation orders have traditionally had a built-in element of help and support, and community service, even without a directly supportive content, can be experienced as positive and useful.

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APPENDIX ORDERS MADE NOVEMBER 1999 TO FEBRUARY 2000

Table A.1 Numbers of orders made in the three courts

	Aberdeen	Peterhead	Hamilton	Total: Monthly	Overall
November 1999	3	0	8	11	11
December 1999	6	1	7	14	25
January 2000	4	1	9	14	39
February 2000	8	0	13	21	60
TOTAL	21	2	37	60	

5 offenders in Aberdeen and 2 in Hamilton were experiencing their second restriction of liberty order, and for 2 individuals in Aberdeen it was their third order.

Table A.2 Ages of all offenders when order imposed, by court

Age	Aberdeen	Peterhead	Hamilton	Total
16 - 20 years	11	2	16	29
21 - 25 years	7	0	11	18
26 - 30 years	2	0	4	6
31 - 35 years	0	0	3	3
36 - 40 years	1	0	1	2
41 plus	0	0	2	2
TOTAL	21	2	37	60

Table A.3 Length of original orders in the three courts

Duration	Aberdeen	Peterhead	Hamilton	Total
3 months	9	0	6	15
4 months	3	1	11	15
5 months	0	0	4	4
6 months	8	1	10	19
7 months	0	0	1	1
8 months	0	0	2	2
9 months	1	0	1	2
10 months	0	0	1	1
12 months	0	0	1	1
TOTAL	21	2	37	60

Electronic Monitoring in Swedish prisons

Swedish Prison and Probation Administration

In April 2005 a system for electronic monitoring of the prisoners at the prison facility Kolmården was taken into use. Kolmården is a low security prison with a maximum capacity of 185 prisoners and a staffing of 45 people.

The objectives for this new measure were to establish sufficient security in terms of securing prisoner presence at the facility, to do so at a limited cost and to make the security work at the facility more efficient. Swedish low security prisons like Kolmården has no or very little physical security arrangements such as walls or fences to prevent definite or temporary escapes. Amongst the public there are often rumours regarding escapes – and especially temporary ones - from this kind of facilities. No matter if that kind of rumours have any substance or not, they are a threat to the open prison concept that Kolmården represents. All together there are eleven similar facilities in Sweden. When Kolmården was taken into use in 2004 it was heavily attacked by the media and others, described as resort where the prisoners could come and go as they pleased. To establish better acceptance to Kolmården and to other prisons of this open concept as a result of the improved presence control provided by the monitoring system therefore was a secondary objective for implementing this measure.

Another important incentive for launching EM in this environment is the fact that the Swedish prison and probation administration, SPPA, have a vast experience from using EM based on the same kind of technology to support home detention of offenders and an insight into the capacity of the technical concept. Due to the success of the use of EM in the home detention programme the concept is highly trusted among the public and presented a tool that could easily be accepted as a reliable measure to use for higher security in other environments, such as prisons.

The system installed at Kolmården is RF based and built on the same technology used in the Swedish home detention schemes. EM is mandatory and all prisoners are tagged with transmitters communicating with a net of transmitters/receivers, ”transceivers”, covering the complete prison in- and outdoor area. The net continuously register the presence or absence of all transmitters allocated to the system and presents the result in real time in the system interface. The monitored area is divided into different zones, defined as inclusion or exclusion zones, making it possible to secure that each prisoner is where he is supposed to be at any given time. The system as it is installed at Kolmården is not primarily for tracking of prisoners on the facility, but offers a rough positioning and tracking possibility.

The system presents a continuously updated report on the prisoner presence, absence and to some extent even their whereabouts on the facility to a cost comparable to the addition of two extra prison guards to the staff. The control delivered by the system would not be possible to obtain without adding a large number of guards to the prison

staff. The system presents a control measure that is far from rational or economically possible to create with additional manpower on the site and provides a possibility to add security to this kind of facility without corrupting the open environment that characterizes Swedish low security prisons.

A recent evaluation of the first twenty months of EM at Kolmården presents a favourable outcome. The technology has proven it self to have the availability needed for this kind of application, the manual security work mostly in terms of manual head counting and searching for prisoners missing at those occasions has been reduced by at least 70 % and both the staff and the prisoners are satisfied with the impact the monitoring has had on their respective roles at the facility.

During the first twenty months there have only been four definite escapes from Kolmården and no temporary escape has been registered. In comparison to other low security prisons this is very low numbers, but still it is not that easy to estimate the impact of the EM on this low rate of escapes. Even so a fair assumption is that the awareness of the monitoring has been keeping the disposition for escapes – especially temporary ones – down. A first survey among the detainees at Kolmården suggests that this has been the case. A most reliable sign on the public reliance on the EM concept to strengthen prison security, but also a direct result of the in fact low rate of escapes, is that as soon as the system was taken into use the media hunt for Kolmården was called off.

The economic outcome of EM in prison is dependant on many variables such as technical concept, security needs, size of the monitored area, the division of the area into zones, size of the target group e t c. The evaluation of EM at Kolmården shows that the concept certainly could be used to cut costs. The Kolmården set up has resulted in a daily cost per head of some 1.5 Euro - a reasonable cost considering the prosperous outcome of the monitoring and the limited size of the site, with an average target group of some 150 prisoners. If cutting costs is the main objective for EM in prison the desired effect at least theoretically grows with the size of the target group.

In Kolmården cutting costs is not an objective, but to increase security at limited cost. A desired secondary effect of this is that the employees would be able to focus on other tasks than manual control, i.e. interacting with the prisoner preparing him for the release or transferral to pre-release measures outside of prison. If this has been the case at Kolmården has not been properly evaluated yet, but the outcome so far at least suggest that the monitoring has freed resources that could be used for that kind of issues.

Based on the favourable outcome of the use of EM at Kolmården SPPA have decided to expand the use of EM in prison. Just like in the Kolmården case this expansion of EM is not primarily motivated by cutting costs, but to increase security in terms of upgraded control of the prisoner presence at the sites. In a first step three other prisons will be equipped with EM during the second half of 2007, with an expected start of production in January 2008. These new sites are all low security facilities like Kolmården, but at least one of them have higher standards for security than Kolmården. When fully implemented, this expansion will result in a total capacity to monitor a bit more than 500 prisoners, corresponding to approximately 10 % of the total prison capacity and 36 % of the capacity of the low security prisons.

The technical concept for the expansion will be the same as in the system used at Kolmården. One system - managed by and operated at SPPA - will be managing all four prison sites. When fully implemented this expansion is expected to reduce costs down close to 1 Euro per day and head.

The concept of EM used at Kolmården and comparable concepts are possibly most suitable for use in low security prisons, to strengthen the control of prisoner presence but it is also quite possible that the concept could be used for other reasons on other security levels in the Swedish prison system. The expansion at hand will at least to some extend give guidance on this. If the expansion presents a favourable outcome SPPA is prepared to expand the use of EM on low security prisons even further and also evaluate the possibility to use EM on other levels in the prison system. The guideline will be – like in the home detention programme - to use EM as a supportive tool to the programme where manual efforts can be saved to reduce costs and to improve the efficiency and the quality of those efforts.

Kjell Carlsson

Manager EM
Swedish Prison and Probation Administration
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