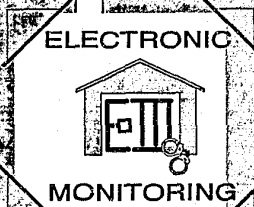


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APPA Winter
Training Institute
February 1994



ELECTRONIC MONITORING:

**Management and Policy Considerations
for Probation and Parole Managers
Before Implementation**

Prepared by:
Ted Forgach
Diane McGinnis
John Prevost

148025

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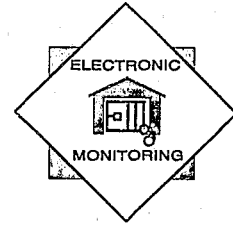
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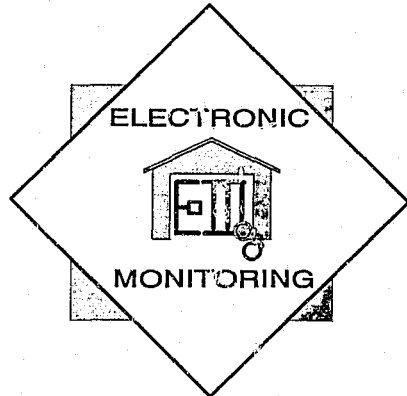


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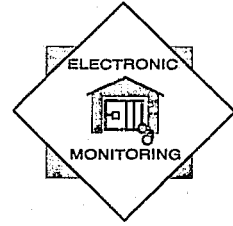
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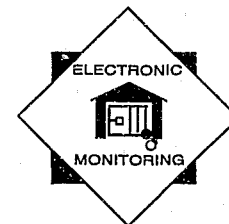
- The Adult Probation Department of the Superior Court in Pima County
- The Georgia State Board of Pardons and Parole



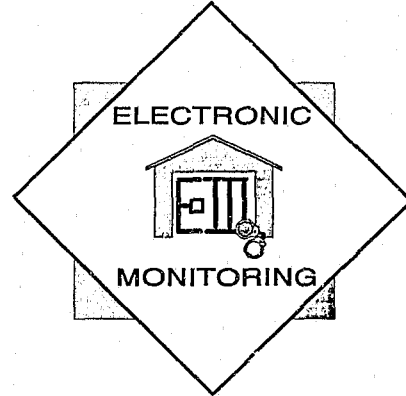
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4. Article: Enforcement Issues in Electronic Monitoring of Probationers
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5. Article: Electronic Monitoring Equipment: 1991 Survey
Journal of Offender Monitoring, Summer 1991
6. Article: Cost Effectiveness and Use of House Arrest With Electronic Monitoring in Pima County, Arizona
Journal of Offender Monitoring, Spring 1992
7. Corporate Paper: Electronic Home Arrest as an Alternative
A National Overview of Issues and Applications
BI Incorporated, November 1993
8. Information Kit: Adult Probation Electronic Monitoring
Adult Probation Department of the Superior Court in Pima County, January 1993
9. Program Overview and Recommended Guidelines
Department of Corrections, Commonwealth of Virginia, January 1994
10. Program Overview and Violation Levels
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Summer 1993*
11. Procedure Manual: Electronic Monitoring
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12. Handbook: The Intermediate Sanctions Handbook; Experiences & Tools for Policymakers
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13. A Sample: Telephone Survey of Electronically Monitored House Arrest Programs in Probation & Parole Agencies Around the US
Adult Probation Department of the Superior Court in Pima County, January 1994



*F*orward

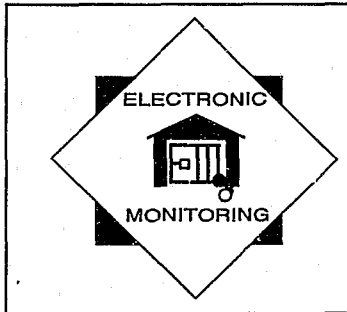
The use of electronic monitoring in the field of community corrections has increased by over 1,000 percent since 1989¹. In spite of its remarkable growth, electronic monitoring is not without its controversy, liability, and doubt about effectiveness. No manager should venture into it without significant planning and consideration of the criticisms and policy issues.

This document is intended to be a probation and parole manager's workbook. It will help guide the user through a global view of some of the policy considerations during the planning and implementation of an electronic monitoring program.

Within the framework of a program planning outline, it will:

- ◆ identify a variety of policy considerations
- ◆ specify how other agencies responded to some of these, in our telephone surveys, and
- ◆ provide a resource appendix.

¹Manley, J. (November, 1993). Electronic Home Arrest As An Alternative: A National Overview of Issues and Applications. BI Incorporated.



I. *T*HE *V*ISION:
*A Perspective for Probation
and Parole Managers*

Across the country, criminal justice agencies increasingly look to electronic monitoring programs to enhance the community corrections movement and to reduce incarceration populations. It is often viewed as a valuable new addition to a sometimes volatile list of intermediate sanctions. In recent years, the search for alternatives to incarceration that will protect both the safety of the community and the credibility of the correction's system, has repeatedly brought electronic monitoring technology into the scope of our probation and parole visionaries.

Electronic Monitoring...

"A technology in search of a program."

NIJ Intermediate Sanctions Workshop 9/93

However, electronic monitoring is not without its challenges. A review of the material from the intermediate sanctions workshop by the National Institute of Justice in 1993 indicates that:

"General evaluation findings suggest we do not know enough to make definitive statements about how arrest and electronic monitoring programs regarding recidivism reduction. . .their effectiveness depends on the supporting programs and services."

"Evaluations thus far suggest, that the first wave of house arrest and electronic monitoring programs have not been successful in reducing recidivism or directing offenders from jail or prison."

"And, since electronic monitoring is used in the context of a variety of other intermediate sanctions, it has often been called "a technology in search of a program".²

²NIJ Intermediate Sanctions Workshop. APPA September, 1993.

Nonetheless, visionaries in the field of electronic monitoring should be congratulated and encouraged as this technology is utilized at almost every stage of the criminal justice and corrections systems.



While the field of electronic monitoring offers only a minimal number of scientific evaluations sufficient to guide future planning, many have written about the issue.

The International Association of Residential and Community Alternatives is sponsoring a National Electronic Monitoring Committee which is currently in the process of

drafting proposed standards for electronic monitoring centers and electronic monitoring programs. This proposal is expected to be completed sometime in 1994.

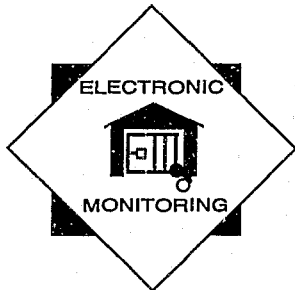
Additional information will soon come from the results of a nationwide survey by Professor Joe Vaughn of Central Missouri State University. It will constitute a major collection of data about electronic monitoring programs from state to state.

In the absence of major scholarly and scientific guides, let managers be aware of:

- policy considerations before implementing,

- availability of resources,

and forge ahead by addressing policy matters contained herein.



III. *T*HE *M*ISSION:
*Formulating a Plan and Identifying
a Target Population*

Agencies which lay a solid foundation in planning a program and have a proactive approach will reap immeasurable benefits throughout the implementation and most importantly, the evaluation of program effectiveness. Too often government bureaucrats allow decisions and actions of implementation before mission development ever begins.

Plan in these areas carefully; policy implications will be impacted greatly through the rest of the process. A good manager will refer often to these foundations in policy.

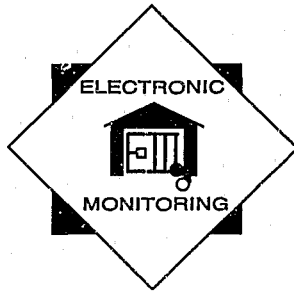
- Identify the mission of your agency.
 - a) Within the scope of that mission, what do you want your electronic monitoring program to accomplish? (program goals)
 - b) Identify your measurable objectives.

L.A. County, California:

Adult / Probation / 90,000 Under Supervision / 300 Average on EM

Mission - *"To offer a safe and cost effective alternative sanction for low risk offenders at no cost to the county."*

- Determine the target population.
(Adults, Juveniles, Probationers, Parolees, Work Furlough, Preconviction, Early Release Inmates, Mixed Population, High Risk, Low Risk) Consider recommendations by Illinois Task Force on Crime and Corrections, and the Bureau of Justice Monograph, Appendix 7 and 1.
 - a) How will you determine who is appropriate for the program? (or inappropriate) Consider article, Electronic Home Arrest as an Alternative, Journal of Offender Monitoring, and Others, Appendices 1,4,6,9,10 and 11.
 - b) Will you want a screening instrument?
- Identify how the funding source will impact your program goals.
 - a) How will you measure success for your funding source?
 - b) Will you establish a user fee?
 - c) How will the user fee be collected?



III. *T*HE *C*ONDITION: *A Look at the Internal and External Environment*

The policy complexities facing your organization will depend, at least in part, on the internal and external environments. The agency should be sensitive to the environmental conditions as they relate to the expansion of community corrections through an electronic monitoring program, and have strategies to address each, whether it has a positive or negative impact potential. Many find the development of an advisory board or policy team helpful, especially when the members represent all key viewpoints. Consider reading Building a Policy Team, Intermediate Sanction Handbook, Appendix 10.

- Assess the condition of the environment in which you operate. What internal and external problems do you anticipate?
 - a) What resistance or support might you encounter from the internal environment? (Officers, Supervisors, Co-workers, Support Staff...)
 - b) What problems might you encounter from the external environment? (Politicians, Courts, Attorneys, Police, Community...)
 - Is the political atmosphere conducive to an electronic monitoring program?

-
- What are the political issues and how can you address or avoid them?

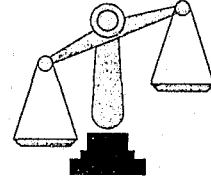
Wisconsin:

Adult / Probation and Parole / 50,000 Under Supervision / 800 Average on EM

Five years ago, at the onset of the legislatively requested electronic monitoring program, Wisconsin had no provisions and no history with EM. They approached the political environment, the criminal justice system, and the community with a focus on training. They created both external and internal advisory committees and workgroups. The department secretary and administrator met with every editor of every WI newspaper to enlist public support.

- Anticipate the response from the players in the criminal justice system and the community. What can be done to alleviate the problems or address the concerns?
 - a) Criminal Justice System:
 - 1) Responses:
 - 2) Actions Recommended:
 - b) Community:
 - 1) Responses:
 - 2) Actions Recommended:

-
- Identify the key hurdles to overcome during implementation. Establish these as milestones for measuring progress.



- Evaluate the legal implications for electronic monitoring and your agency's position in each area. Consider policy material from the American Bar Association and ACLU, Appendices 2 and 3.
 - a) Review the statutes to determine if your agency has legal jurisdiction, or limitations in operating an electronic monitoring program.

"Enabling legislation should be sought if the local courts narrowly interpret the latitude of establishing conditions of release. In the absence of enabling legislation, courts and releasing bodies assured of a degree of immunity should authorize the use of monitoring technology."³ Consider reading Bureau of Justice Monograph, Appendix 1.

- b) Several legal issues may impact decisions:
 - 1) **FOURTEENTH AMMENDMENT:** Equal Access - the potential for discrimination is great here. Consider the affordability and necessity of:
 - a) user fees
 - b) phone service
 - c) residence.
 - 2) **EIGHTH AMMENDMENT:** Harsh Punishment - Electronic monitoring could be inappropriately used in cases where such restriction does not fit the crime.
 - 3) **FOURTH AMENDMENT:** Protection of Ureasonable Search and Seizure. Is the program unreasonably intrusive?

³Bureau of Justice Monograph, February, 1989.

-
- 4) **EXPANSION OF SOCIAL CONTROL** - Does the use of electronic monitoring expand to cases that otherwise would be on regular supervision with less control? Instead of being used to reduce your tendency to incarcerate, is it actually widening social control?
- 5) **ADMISSIBILITY OF EVIDENCE** - Revocation proceedings solely dependent on the information from the monitoring technology may raise issues regarding scientific accuracy. Consider reading "Frye vs US" to determine admissibility of such evidence in Appendix 1.

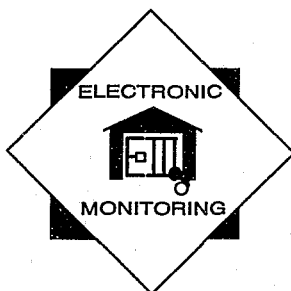
ERIE COUNTY, NEW YORK:

Adult / Probation / 5,300 Under Supervision / 40 Average on EM

Like most agencies contacted, New York has experienced minimal legal challenges on the method of use or the EM technology. When arguments are posed, it is often in the latter. Erie County's experience has been that once the technology is explained, the equipment speaks for itself.

- 6) **LIABILITY** - The added information provided to corrections agencies or monitoring centers due to these programs may also increase liability exposure when staff fail to respond to known violations.⁴

⁴Bureau of Justice Monograph, 1989.



IV. *T*HE *D*ECISION: *Building Program Credibility*

The type of electronic monitoring equipment your agency uses will have an impact upon policy, program operations, credibility, and success.

Review the agency's mission, target population, supervision responsibilities and liabilities before making decisions about computer hardware and software.

- Evaluate the various types of electronic monitoring equipment and consider how each could best serve your program. Consider Appendices 4, 5 and 11.

MARIN COUNTY, CALIFORNIA:

Adult / Probation and Parole /
2,500 Under Supervision / 30-60
Average on EM

Marin County leases 60 active signaling units with voice verification. For the DUI offender, they add video identification and breath alcohol equipment. High Tech? Yes, but...they described the combination of equipment as "sophisticated," but "incredibly unsatisfactory," due to the complexity of installation for the officer and operation for the offender.

- a) A Passive System
- b) An Active System
- c) A Biometric System
- d) A Hybrid System

- Software selection is also an important component in building program credibility. As your program changes over time so does the technology of both equipment and software.

-
- a) What are the policy implications of having "state of the art" hardware and software?

 - b) What is an "upgrade" and what is not?

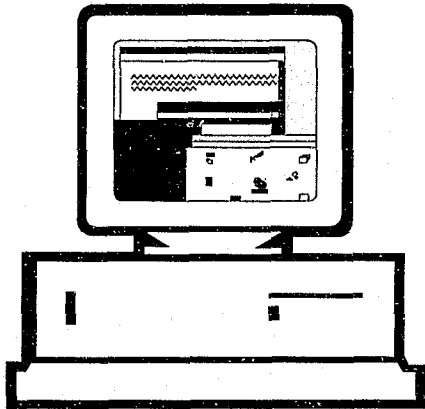
PIMA COUNTY, ARIZONA:

Adult / Probation / 5,300 Under Supervision / 45 Average on EM

Per the lease agreement, the Adult Probation Department of the Arizona Superior Court in Pima County was to receive "upgrades" at no cost. When the vendor came out with a new line of transmitters and began discontinuing the one Pima County was using, the program manager viewed the new transmitters as an "upgrade," but the vendor did not. The result of this misunderstanding...conflict.

- What information does your agency need to track by computer for operational and statistical purposes? Consider Appenix 6.
 - a) Operational:

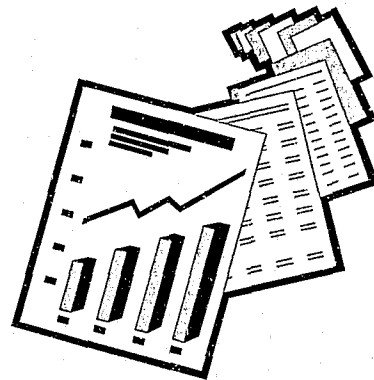
 - b) Statistical:

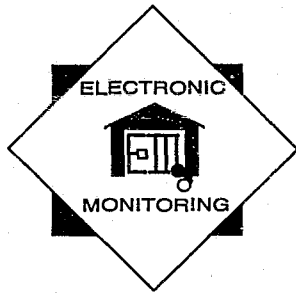


- In what ways will your selection of equipment and software today meet the program's expected needs three to five years from now? (passive, active, biometric, hybrid)

- How could the **purchasing** of equipment and software today best meet your program's expected future needs?

- How could the **leasing** equipment and software today best meet your program's expected future needs?





V. *T*HE *A*CTION:
Operating a Successful Program

A credible program will require a timely response to violations, tamper alarms, and equipment failures, whether the agency provides its own monitoring center or contracts out for the service.

Your agency must define "timely" as it relates to the mission, the target population, and the conditions in the environment. Few agencies are afforded the ability to provide installations and actual field responses 24 hours a day, seven days a week. Furthermore, the offender's legal status may significantly influence your agency's actions on violations.

- How will your agency respond to reported electronic monitoring equipment failures? Consider Appendix 4.
 - a) Who will respond?
 - b) How much of a delay will be acceptable?

- How will the agency respond to curfew violations or tamper alarms?
 - a) Who will respond?
 - b) How much of a delay before responding will be acceptable?

TALAHASSEE, FLORIDA:

Adult / Parole and Inmate Population / 124,000 Under Supervision /
Approximately 900+ Average on EM

If arrested for a violation, most probation violators in urban areas would be released from custody anyway, unless there is a new felony charge. So, why go out? "What's the gain in going out 24 hours per day?"

- c) Once a violation is confirmed, what type of action will be expected of the responding officer? What, if any, liability issues need consideration here?

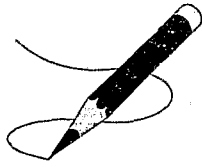
- Will your agency, require a human to personally confirm the violation in order to remove the offender from the program or revoke? Why?

- What evidence will your officers need to collect and present to the administrator, parole board, or court in order to prove an electronic monitoring violation?

PIMA COUNTY, ARIZONA:

Adult / Probation / 5,300 Under Supervision / 45 Average on EM

A response team, operating 24 hours per day, 7 days pe week, guarantees immediate response and field visit following a major violation, tamper alarm, or equipment failure. "Fairly strict accountability exists here, not just because it enhances program credibility and public safety, but because several units are funded for the sheriff's jail reduction effort."



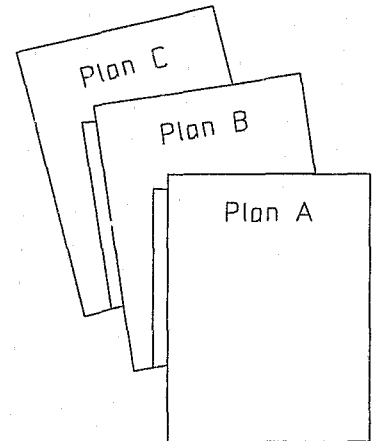
Establish a basic operating plan for each of the following services:

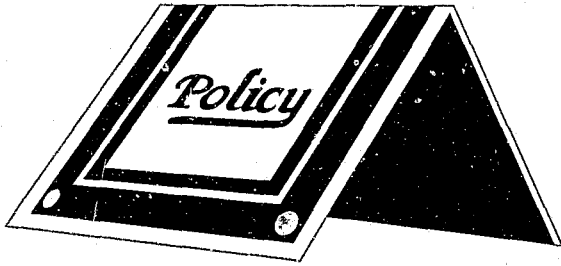
- Equipment installation and removal.
 - a. Who? (agency, service providers, other)
 - b. When? (time of day, day of week, holidays)

- Monitoring center services.
 - a. Who?
 - b. When?

- Field surveillance.
 - a) Who?
 - b) When?

- Response to reported violation and equipment failure.
 - a) Who?
 - b) When?





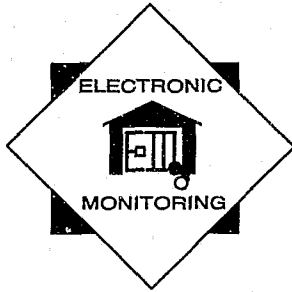
Review your program mission, target population, supervision liabilities, and look at the four categories of electronic monitoring services below. List one to two policy issues for each decision as they apply to your agency.

- Equipment Installation and Removal?

- Monitoring Center Services?

- Field Surveillance?

- Response to Reported Violation and Equipment Failures?



VII. *T*HE *P*ROVISIONS:
A Realistic Look at Resource Demands

Financial provisions will be required for equipment, staff, supervision training, vehicles, computers, overtime, compensatory time, upgrades, and program documents.

These demands are just the beginning. Agencies should weigh the start-up and operating costs carefully as electronic monitoring programs have proven to be very labor intensive, even more than most have expected.

SANOMA COUNTY, CALIFORNIA:

Adult / Probation and Parole / 2,300 Under Supervision / 42 Average on EM

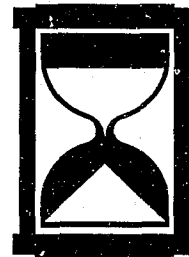
"Administrators don't understand. We're still struggling with the labor intensive aspects of electronic monitoring."

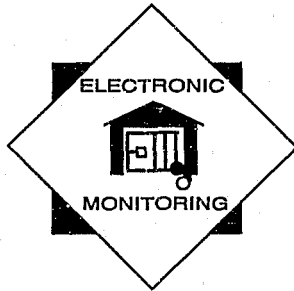
Provisions for the program, other than financing, will include management's ready involvement in establishing written policy and procedures, and management's strategic placement of the program in the organizational structure in a way that speaks to administrative commitment and support.

Review again the program mission, target population, supervision responsibilities, and liabilities.

- What resources are available to operate your program?
 - a) Number and type of staff?
 - b) Clerical support and office?
 - c) Vehicles, radios, field surveillance devices such as portable electronic receivers?
 - d) How will the agency manage overtime, on-call time, holidays? Is there funding for:
 - 1. Overtime?
 - 2. "On-call" time?
 - 3. Holidays worked?
 - 4. Holidays on-call?
 - 5. Call outs after hours?

- What is your agency's policy on compensatory time accrual and usage?
 - a) How will the policy be applied to the staff on a 24 hour per day, seven day per week?

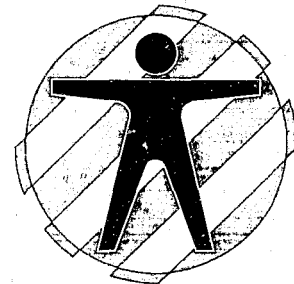




VIII. *T*HE *R*EVISION :
The Successful Transformation Process

Newborn programs require multiple check ups. Since an electronic monitoring program will impact numerous agencies in the criminal justice system, it may be appropriate to involve representatives from the system as well as the community in the check up points, perhaps every two to three months.

A more formal evaluation process should also be included in the program design. In this process, your agency should revisit the departmental and program mission statements, the environmental and legal conditions, the decisions about equipment and contract services, the action plans for responses to equipment failure, violations and tampers, and the provisions as they relate to program needs. Then, make the necessary modifications so that program outcomes are consistent with the mission of your electronic monitoring program.



In summary:

- ◆ never to stop asking "why" in every policy matter,
- ◆ continually review the available research, and
- ◆ consider the input of others who have travelled a similar path.

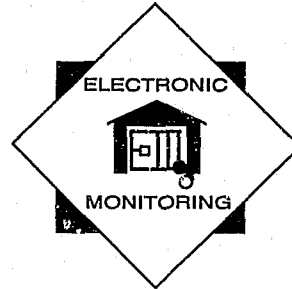
Telephonic interviews were conducted with 25 probation and parole agencies during the preparation of this document. At the conclusion of each, program managers were asked to offer advice to those managers considering the implementation of the electronic monitoring program.

Our conclusions are snapshots of their advice.

Albuquerque, New Mexico:

Adult / Probation and Parole /
3000 Under Supervision / 63
Average on EM

"Look closely at your response to violations after hours." New Mexico had difficulty establishing policy for response after hours because their intention to have 24 hour on-call was deemed contradictory to the organization's overtime policy and the Fair Labor Standard's Acts.



Tallahassee, Florida:

Adult / Probation and Parole
Institution / 124,000 Under
Supervision and Incarcerated /
900 Average on EM

"Decide on what your program is to accomplish; then design the program to fit your needs."



Atlanta, Georgia:

Adult / Parole / 23,000 Under Supervision / 70 Average on EM

"...consider carefully whether you want to run the program or contract out. Think long and hard about how you want to respond to violations (having a beeper is like being under supervision yourself). Don't oversell EM. It is not going to prevent anyone from committing a crime."



APPENDIX 1:

ELECTRONIC MONITORING IN INTENSIVE PROBATION AND PAROLE PROGRAMS

MONOGRAPH

BUREAU OF JUSTICE, 1989

Electronic Monitoring in Intensive Probation and Parole Programs

Monograph

Bureau of
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Assistance

February 1989

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Introduction

Electronic signaling devices for monitoring criminal offenders are often seen as a "magic fence" which isolates offenders and protects the public at relatively little cost. Their use has spread rapidly and widely. First used in December 1984, by early 1987 electronic monitoring devices were being used in twenty states and by early 1988 in thirty-two states.

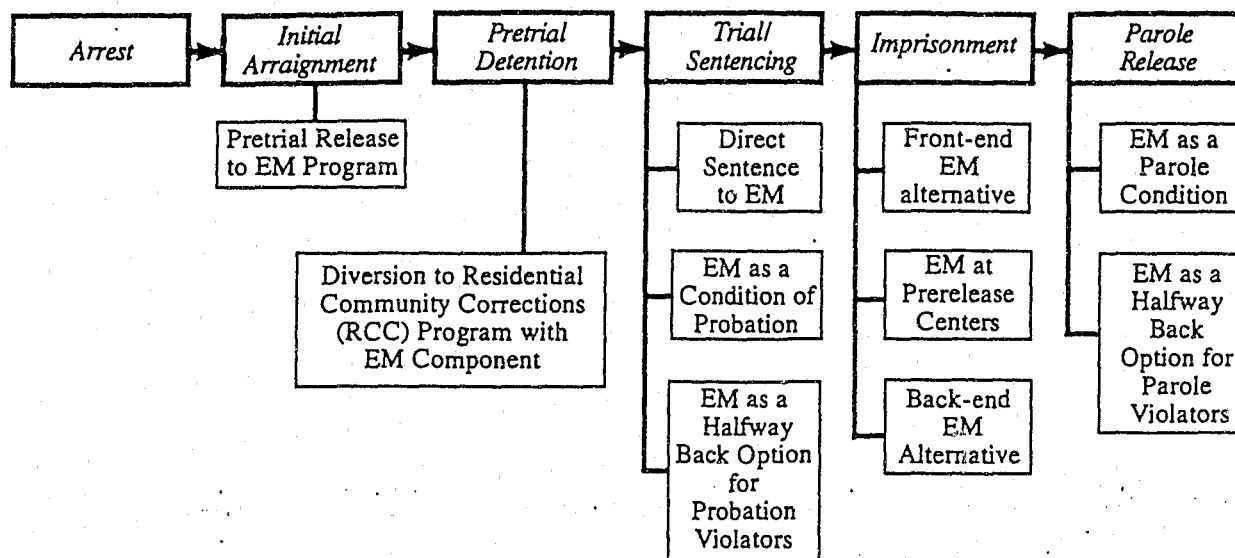
Electronic monitoring equipment is usually classified in terms of its signaling characteristics. One type, capable of programmed contact, is a receiver which requires the offender to respond on cue as directed; the other type has a miniaturized transmitter which emits a continuous signal. The availability of a telephone in the offender's home is implicit to the use of most monitoring technologies.

The programmed contact models operate from a central computer which is programmed to call offenders during times (randomly or specifically) required by the supervision plan. The types of equipment currently available include coded wristlets/anklets, voice verification, visual verification and pagers.

The continuously signaling devices consist of three parts. The first part is a small transmitter which is strapped to the offender. Coded radio signals are transmitted (generally six to ten times per minute) to a receiver/dialer in the offender's home. The devices have a receiving range of 100 to 200 feet. The second part, the receiver-dialer, receives the signal from the transmitter and dials the central computer when the transmitter first is within range or when the signal stops. The central computer compares data to the offender's schedule and reports on offender activities. Some systems alert supervision officers to violations; others simply record the violation, which is handled according to the program design.

Newly introduced "hybrid" systems have combined programmed contact and continuously signaling technology so that some of the limitations of each are reduced or eliminated by the strengths of the complementing system. These systems generally employ voice verification technology to support/verify a continuously signaling system's report of a violation.

Key Decision Points Where Electronic Monitoring (EM) is Being Used¹



Purpose of Monograph

The purpose of this monograph is to provide guidance in the planning and implementation of electronic monitoring in intensive supervision probation and parole programs.

Electronic monitoring (EM) has been used for many correctional purposes such as an alternative to probation/parole revocation, probation/parole supervision, work-release, pretrial jail diversion and diversion from prison.

Firms aggressively market EM products and services, and their use continues to spread rapidly, often with little or no planning for how the devices will be used. It is especially important to define specific program needs and objectives before meeting with vendors and to determine the types of equipment needed for the specific program. "Equipment in search of a program" describes many early monitoring efforts which did not fully recognize the program planning process.

Applications

The use of monitoring devices enhances offender control within the community. The degree of control expected by the use of signaling devices is generally defined as follows:

Curfew: A curfew program includes home confinement during limited and specified hours, usually at night. Curfew is a characteristic component of intensive supervision and jail work-release programs.

Home Detention: A detention program is more restrictive than curfew. It requires the offender to remain at home at all times except for employment, education, treatment or other specifically preapproved and defined purposes.

Home Incarceration: In this type of program, offenders are restricted to the home at all times except for very limited activities, such as religious worship or medical treatment.

Legal Issues

A principal legal concern of any electronic monitoring application, irrespective of design, is that the technology allows the state to intrude into an offender's home, an action severely restricted by law. Thus, many legal theorists examine the use of electronic monitoring equipment from a perspective of infringement upon an offender's right to privacy, as well as guarantees against self-incrimination, unlawful search and seizure, and cruel and unusual punishment. These legal issues will be explored by the lower courts throughout the United States. To date, however, Federal or state appellate courts have not received formal challenges. Without such legal guidance, programmatic decisions must often be made in anticipation of formally constructed opinions. If uniform procedures are developed in concert with generally accepted legal principles, electronic monitoring can withstand legal or constitutional challenges.²

As a condition of release, electronic monitoring is generally considered a privilege and not a protected right. Unless the decision is structured by law, the placement of an offender on probation or parole is at the will of the granting authority. The conditions imposed upon the offender must be:

- o Related to the protection of society and/or the rehabilitation of the offender (Port v. Templar);
- o Clear (Panko v. McCauley);
- o Reasonable (State v. Smith); and
- o Constitutional (Sobell v. Reed).

The offender's acceptance of electronic monitoring as a condition of release or sentence has been viewed as constituting voluntary consent and waiver of rights.

Constitutional Guarantees

Equal Protection. Courts have consistently held that probationers/parolees can be assessed fees for supervision. Without statutory authorization courts have upheld the imposition of fees, based upon the

broad discretion to determine conditions of supervision.

The assessment of fees for specific conditions, such as monitoring devices, upon indigent offenders may raise challenges under the Equal Protection Clause of the Fourteenth Amendment. The exclusion of indigent offenders from alternative sentences due to an inability to pay may lead to an unequal risk of incarceration.

Right to Privacy. The Fourth Amendment protects citizens from unreasonable search and seizure. The use of electronic monitoring devices does not constitute a search under current interpretation of the Fourth Amendment. The use of electronic monitoring must relate to compliance with ordered conditions of release and should not infringe upon the offender's conversations or conduct within his home.

Based upon the concept of "diminished rights," sentencing authorities may use broad discretion in establishing the conditions of release in which electronic devices are employed. However, the courts may rule in favor of the offender's right to privacy against electronic monitoring if the use cannot be justified in terms of an articulated security interest, ability to deter future criminal conduct or ability to reduce the risk of flight.³

Right Against Self-Incrimination. Information obtained from the use of an electronic monitoring device will reveal only physical location or non-location of the offender for use in an administrative proceeding. The right against self-incrimination protects an individual from testimonial self-incrimination, not physical incrimination, which is outside the scope of the Fifth Amendment. The evidentiary requirements for sustaining a probation/parole violation are considerably less than those required of an initial criminal conviction.

Cruel and Unusual Punishment. The use of an adjunct tool in a community supervision program is more humane than incarceration, is not unduly oppressive

or disproportionate to the offense committed and therefore, is not violative of the constitutional prohibition against cruel and unusual punishment.³

Other Legal Issues

Several legal issues may arise in the operational aspects of an electronic monitoring program. While these issues remain speculative, careful consideration should be taken to address these areas.

Admissibility of Evidence. Revocation proceedings based solely upon the information provided by a monitoring device may raise issues regarding the scientific accuracy of such information. The courts will presumably rely on the Frye rule (Frye v. U.S., 54 App. D.C. 46, 293 F. 1013, 1910) to determine admissibility of such evidence. The findings in Frye v. U.S. concluded that the means by which the evidence was obtained must have achieved general

acceptance in the relevant scientific community. In order to establish that the monitoring device has been established in the scientific community, an expert may be necessary. An alternate approach to the Frye test is the "relevancy approach" which treats novel scientific evidence the same as any other evidence, weighing its probative value against its potential to prejudice. Proponents of this alternative argue that the Federal Rules of Evidence (1975) supersede Frye.

Liability. The increased information provided from the use of monitors may increase liability for failing to respond to known violations. Courts continue to widen the net of legal responsibility for the acts of correctional staff. "Accountability, court scrutiny, and greater visibility are realities with which probation/parole officers will have to learn to live and cope."⁴

Request for Proposals: The Bidding Process

The specific hardware and software requirements will be determined by the program design. The technology must adapt to the environment of the program and should not be permitted to dictate the operations of the program.

The development of a Request for Proposal (RFP) will specify the agency requirements permitting vendors to bid for the contract. The RFP should address the following areas, at minimum:

Description of Program. The purposes and objectives of the core program should be briefly described in addition to the intent of the monitoring component.

Vendor Qualifications. There is no regulatory agency to assure a standard level of service. Potential vendors should provide:

- o Appropriate business license and FCC licensing of equipment;
- o Staff qualifications and backgrounds; and
- o Insurance/bonding/liability coverage.

Level of Service. Agencies must determine the tasks expected of potential vendors. The program design statement and preliminary policies and procedures will outline the responses and duties of the sponsoring agency and, therefore, should not be included in the RFP. The agency must determine the need for private contracting of monitoring services or a lease/purchase of equipment.

The performance expectation, such as 24-hour service, availability of spare units and operational malfunctions, of both the sponsoring agency and potential vendors must be established at the outset.

Equipment Specification. The type of equipment to be utilized should be specified as closely as possible. Variables to be considered include:

- o Accuracy of equipment,
- o Report capability,
- o Tamper resistance,
- o Shock resistance,
- o Hypo-allergics,
- o Loss or damage agreement,
- o Waterproof,
- o Battery life,
- o Limitations,
- o Service (time frames, cost, shipping),
- o Equipment upgrades for engineering advances,
- o Tools for installation and adjustment of the equipment, and
- o Written manual for equipment function

Training. Training expectations of the vendor should be expressly identified in the RFP. These should include, but not be limited to, technical installation, training for minor repair/troubleshooting, monitoring computer generated reports and data input. Vendors should provide fully updated manuals for use in training programs. Officers will require technical training in the hook-up and monitoring of computer generated reports.

Monitoring. An RFP for a monitoring service needs to address the response that will be required when a violation is noted. Private contracting agencies may be required to provide a level of service which may include procedures for telephoning to assure that a violation has occurred and notification of the agency of violations. The agency must establish a violation response policy prior to contracting for such a service.

Demonstration of System. Familiarization with the prior performance of both the vendor and the equipment is essential. Require the vendors to indicate current installations. Talk to experienced users at the administrative and line level. Require that competing vendors demonstrate the equipment, including hardware, software and output to staff. Programs may consider performance bonding as a means of limiting cost in demonstrating the system.

Program Experience

Although the use of electronic monitoring technology is widespread, no scientifically designed and conducted evaluations have yet been completed to assess its effectiveness. Further, the speed of changing technology threatens to outdate the evaluations currently underway. The following summaries of ISP programs which have incorporated electronic monitoring into their program designs are provided to demonstrate how the technology may enhance supervision/surveillance strategies. The summaries focus on different aspects of the planning, implementation and evaluation process. Further information on a specific program is available from the contacts listed under Sources for Further Information and Assistance.

Colorado

In Colorado, offenders diverted from prison and sentenced to ISP commonly serve short periods of incarceration in county jail facilities. Also, due to prison bed shortages, state offenders awaiting transfers to the Colorado Department of Corrections are held in county facilities. The result is a large backlog of state prisoners occupying county jail facilities. A principal objective in implementing electronic monitoring supervision is to reduce the use of county jails as an initial phase of ISP sentencing.

Offender selection criteria for electronic monitoring follow general acceptance into Colorado's ISP program described below.

The Colorado Judicial Department piloted an Intensive Probation Program in 1984. The program was based on a model for selecting prison-bound offenders for a more intense level of community supervision and for managing the risk of the ISP offenders to ensure public safety. Colorado ISP is now a sentencing option in all 22 judicial districts.

The program design consists of an objective selection tool and intense program supervision standards. In January 1988, electronic monitoring was introduced as a surveillance tool to enhance risk management. The caseload per officer is limited to 18 to 25 offenders selected by classification on a historically derived,

in/out sentencing matrix. The selection process also includes consideration of aggravating and mitigating factors, review by a screening committee and sentencing by the court.

An evaluation of the program completed in June 1988 found that the program objectives were being met. Of 168 intakes between December 1, 1986 and September 30, 1987, 94 percent had profiles consistent with the target population. Of the 80 program participants who had been discharged from the program, 42.5 percent successfully completed the program; 37.5 percent were revoked for a rules violation; 12.5 percent had an outstanding warrant for absconding; and six percent committed new crimes. Of the five new crimes, three were felonies, and two were misdemeanors. There were no victim injuries.

The evaluation also found that selection factors, such as criminal history score, risk/needs score and Case Management Classification category, were related to program success and that the average time to failure was six months.

Based upon this successful experience, electronic monitoring was incorporated as a surveillance component within the existing program design. Upon acceptance into ISP, the offender is further reviewed to determine suitability for electronic monitoring using the following criteria:

- o Sentences to county jail as a condition of ISP sentencing;
- o High-risk score;
- o Identifiable drug problem according to adopted need scales;
- o Treatment availability/mandatory referral for drug abusing offenders;
- o Special condition offender;
- o Voluntary consent; and
- o Stable residence/family environment.

An in-progress evaluation indicates that the ISP offender placed on EM has a higher risk score and a greater probability of being a drug offender than the average offender in the ISP population. Outcome data are inconclusive as only eight monitored offenders were terminated from ISP between January and June 1988. Four completed the monitored phase of ISP and returned to regular supervision while the remaining four were returned to prison. Although the effectiveness of EM is unknown, officers using the technology support expansion. Properly functioning equipment assists them in their supervision responsibilities while enhancing the capability of the overall ISP program as a sentencing option to the Colorado courts. Electronic monitoring is available to all 22 ISP districts.

Georgia

Georgia implemented one of the earliest and most comprehensive of the new-generation ISP models based on surveillance and treatment and, thus, is one of the most well-known. The target group for the Georgia program is the nonviolent yet serious offender who, without the Intensive Probation Supervision (IPS) option, would be sentenced to prison.

Electronic monitoring was implemented as a demonstration project funded by the Bureau of Justice Assistance (BJA). The purpose of the project was to determine the most effective type of surveillance for the drug offender. The methodology includes random assignment of several different surveillance techniques to drug offenders for varying time periods while conducting urinalysis screening at varying intervals. The results will be used to determine the comparative costs and benefits of selected combinations of surveillance and testing schedules and thus, to determine what type of surveillance is most cost-effective for the drug offender. The project is coordinated with the IPS sentencing alternative.

The primary goals of the project are to:

1. Increase public safety through increased drug treatment/deterrence and increased control of the offender; and
2. Develop community supervision alternatives which address and provide for the specific needs of the target population.

The electronic monitoring tests will be conducted with 50 offenders at each of the three test sites. These probationers are being randomly assigned to experimental or control groups to test not only supervision levels and screening levels, but also types of equipment. The electronic monitoring systems are monitored through the contract vendor which validates equipment-reported violations and notifies the appropriate officer if a true violation occurs.

New Jersey

New Jersey's ISP, which began in 1983, is a prison release program. All applicants for the program must have received a state prison sentence of one year or more and must have served a minimum of 60 days of the sentence prior to release into the program. Designed for nonviolent offenders, the program has two primary goals: to reduce prison crowding and to provide an intermediate form of punishment between incarceration and traditional probation/parole.

New Jersey's stringent selection criteria and supervision standards are reflected in the low acceptance rate (17 percent) of applicants. Applicants are assessed to determine motivation and suitability. The selection process further includes a screening board and acceptance by a three-judge panel.

Supervision standards include full-time employment; a 6:00 P.M. curfew; a daily diary and a weekly budget; weekly community service; frequent drug and alcohol testing; a minimum of 20 contacts per month between officer and participant; payment of all financial obligations including contributing to program costs; and participation in ISP weekly group meetings and treatment programs including mandated and verified attendance at Alcoholics Anonymous or Narcotics Anonymous.

At the end of May 1988, 1249 participants had been released from prison into ISP. Currently, 384 (31 percent) participants are under supervision; 465 (37 percent) have successfully completed at least 16 months under supervision; 13 (1 percent) died while under supervision; and 387 (31 percent) have been returned to prison. Of those returned, 281 (73 percent) have been returned for rules violations, and only 106 (8.4 percent) have been arrested for new offenses. Of these new offenses, 58 (4.6 percent) were felonies and 48 (3.8 percent) were misdemeanors. Of those who have successfully completed New

Sources for Further Information and Assistance

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Endnotes

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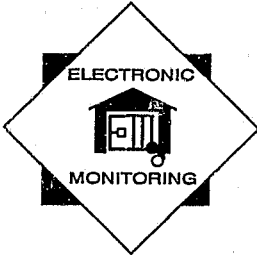
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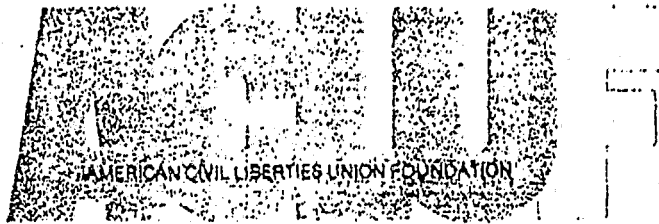


APPENDIX 2:

AMERICAN CIVIL LIBERTIES UNION

INTERNAL MEMO AND POLICY

ACLU, 1991



THE NATIONAL PRISON PROJECT

4 January 1994

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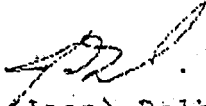
Dear Ted:

I enjoyed speaking with you today, and thank you for your article on the cost effectiveness of electronic monitoring. Good stuff!

I spoke with Staff Counsel Ed Koren, and he was unaware of any cases challenging the use of electronic monitoring. I have, however, found some interesting arguments and concerns on this topic, and I thought you'd find it useful -- see enclosed.

I hope this is helpful. Please give me a call if you need additional information (202/234-4830).

Sincerely,


 J.D. (Joan) Dolby
 Staff Associate

/users
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MEMO

January 12, 1987

TO: ACLU Affiliates, ACLU Staff
FROM: Al Bronstein *AB*
RE: House Arrest and Electronic Surveillance

As many of you know, one of the hottest new issues in corrections is the use of high-tech monitoring (wrist or ankle bracelets, beepers, etc.), combined with a sentence to house arrest or probation. Ira, Mort and I have discussed this issue and believe that current ACLU policy is sufficient to support the following positions which I commend to you.

1. Net-widening

Although one of the rationales for using electronic surveillance with a probation or house arrest sentence is that it enables the state to imprison fewer people, it is likely that it will be used to widen rather than narrow the net of social control. For example, when life sentences without possibility of parole were first introduced as an alternative to the death penalty, it was applauded by some who were opposed to the death penalty. However, such life sentences turned out to be imposed on many people not subject to the death penalty, and who would not otherwise have been subjected to such harsh sentences. In a similar fashion, electronic surveillance combined with house arrest, like many other "alternatives to incarceration", will undoubtedly be used in many cases for persons who would not have

otherwise received a jail or prison term. They would have received a probation or suspended sentence, and the addition of the electronic surveillance increases rather than reduces the liberty deprivation involved.

There is some early data from a few states (Florida and Michigan) indicating that house arrest is being used primarily as a true diversion from prison. [In those cases, however, we need to be aware of the involuntariness of the choice given divertees - take house arrest with a beeper or go to jail!] Because ACLU policy on Criminal Sentences (#239) strongly supports alternatives to incarceration, we should oppose house arrest where it is not used as a true alternative but merely increases liberty deprivation, and we might cautiously approve its use where it is a true diversion, subject to the concerns expressed below. It is crucial, however, to oppose all house arrest plus electronic surveillance schemes that are not strictly and normally limited to situations that otherwise would have included incarceration.

2. Fourth Amendment

We should raise Fourth Amendment objections to electronic surveillance because ACLU policy on Prisoners, Parolees, Probationers and Ex-Offenders (#238) states that these persons should retain the right to be free from unreasonable searches and seizures and the right of personal privacy. In doing so, however, we must keep in mind that the Supreme Court has recently held that prisoners have no Fourth Amendment or privacy rights, and most lower court decisions hold that parolees and probationers have little Fourth Amendment protection. These holdings make it very unlikely that Fourth Amendment claims will be successful in litigation. However, Fourth Amendment concerns can still be raised in debate over public policy, legislation and administrative procedures.

3. Associational and Privacy Rights

It is here that the slope gets very slippery. We already have the technology to follow the electronically surveilled defendant into the community and record where they shop and who they might talk to. We could then add a recording and transmitting device to the beeper and know what they say and to whom. It will not be long before video transmitters are feasible. The potential for abuse here is enormous and is probably enough to justify our objection to the entire practice.

4. Equal Protection Problems

Most of the programs involving house arrest and electronic surveillance require the defendant to pay all or part of the cost of the electronic surveillance equipment. They all require having a house and a telephone. The potential for discriminating against poor people who have no home, no phone nor

sufficient funds to pay for the equipment is real so that poor folks get sent to prison and more affluent people get house arrest.

5. Larger Social and Public Policy Concerns

In the criminal justice area, the technology may involve coercive tactics for achieving social control under the aegis of crime prevention and crime control. If it can be done here, why not utilize electronic devices on:

...employees in large factories or department stores to keep track of their work, who they talk to, etc. (Ed Meese has already recommended that employers engage in employee surveillance);

...children to make sure they are in school and to record what they do after school;

...persons who have certain feared illnesses such as AIDS.

It is important that whenever such schemes arise, the ACLU be active in opposing them unless they are reliably limited by the concerns expressed above.

NOTE: If you are confronted with this issue and want some materials or additional information, contact Sharon Goretzky at the National Prison Project in Washington, D.C. (202/331-0500).

Court Proceedings

Policy #219

Bail

(a) The Union opposes all forms of preventive detention and the application of all conditions of bail unrelated to assuring the appearance of the defendant at trial. [Board Minutes, June 21-22, 1969.]

The Union supports reform of the federal bail system to eliminate the present injustice of basing a defendant's release not on the probabilities of the defendant appearing voluntarily for trial but on how much money the person has. Release on personal recognizance should be the normal and usual method for the release of all persons accused of crime. When additional assurance of appearance is deemed necessary, acceptable alternatives include:

- 1) release in custody of a person or organization willing to supervise the accused;
- 2) supervision of a probation officer;
- 3) certain restrictions on travel, association, and abode;
- 4) release during daylight hours only;
- 5) 10% deposit bond; or
- 6) bail bond.

No person should be denied bail solely because of financial inability to give bond or collateral. All defendants should receive credit toward service of their sentences for time spent in custody before trial. [Board Minutes, May 24, 1965, March 28, 1966.]

A defendant who is out on bail enjoys a greater chance for acquittal. The defense attorney can be assisted in investigating the facts of the case. The defendant can assist in preparation of the trial and continue working to pay for investigative and legal costs and for family support. The defendant who must wait many months in jail can do none of these things, and often can never fully recover from the disruption to his or her life even if acquitted. [Board Minutes, May 24, 1965; Weekly Bulletin, November 30, 1964.]

Bail procedures should be designed solely to assure the defendant's appearance at trial. Preventive detention before a person has been convicted of any offense is an extremely dangerous procedure, irrelevant to the purpose of bail. Persons who may be a menace to public safety if they are released prior to trial should be -- and can be -- dealt with by existing substantive criminal law or by laws relating to the commitment and treatment of the mentally ill. Persons considered likely to flee before trial can be dealt with under current surety bond procedures. But to add to our present bail system debatable procedures for incarcerating social undesirables would tend only to undermine the system and to vitiate the constitutional principles on which it is based. [Board Minutes, May 24, 1965; ACLU Statement on S.1357, June 16, 1965.]

The Union thus opposes preventive detention for all persons as all pre-trial defendants must be presumed innocent until proven guilty and, therefore, not necessarily "dangerous" simply because they stand accused.

Full review by appeal to higher courts should be made available to any person denied bail. [Board Minutes, March 28, 1966.]

* * *

(b) Problems of Crime

The ACLU views with grave concern the increasing attacks on civil liberties in the guise of dealing with the serious societal problem of crime. Political rhetoric has replaced fact and reality as legislatures rush to enact laws such as preventive detention, selective incapacitation, limitations on judicial review of convictions, elimination of the protections of the Fourth Amendment, mandatory sentencing and the death penalty. These approaches are no solution to the problem of crime, and threaten serious erosion of the Bill of Rights. We urge affiliates to conduct a continuing and active program of education and opposition to these measures. [Board Minutes, October 15-16, 1983.] (See also policies on Criminal Sentences and Capital Punishment.)

Prisoners, Parolees, Probationers, and Ex-Offenders

Policy #241

(a) Prisoners, whether convicted or waiting for trial, remain protected by the Constitution and while incarcerated should suffer only restrictions of those constitutional rights which are necessary concomitants of incarceration.

When the state incarcerates an individual, it takes responsibility for that person's fair, safe, and humane treatment pursuant to the Fifth and Fourteenth Amendments. Moreover, the Eighth and Fourteenth Amendments forbid the state from imposing cruel and unusual punishment upon an incarcerated individual. Numerous national commissions have found jail and prison conditions to be scandalous. In many states the entire prison system or the major institution in the state has been placed under court supervision because of unconstitutional conditions which amount to cruel and unusual punishment and other states are facing similar court challenges. In addition, conditions in hundreds of jails have been found to be unconstitutional by state and federal courts. Such conditions violate the rights of prisoners to the decency and respect to which they are entitled even when they are being confined by the state.

All confined persons are entitled to safe, sanitary, and humane conditions of confinement. These include adequate living space, food, recreation, medical and mental health care, and protection from physical mistreatment by guards or other inmates. In addition, there should be adequate opportunities for self-improvement.

* * *

(b) Among the specific rights to which prisoners are entitled are the following:

1) The right to counsel and other legal assistance. Prisoners have the right of unimpeded access to the courts. To effectuate this right, prisoners should have access to counsel and to other legal assistance. In addition, prisons should maintain an adequate law library for the use of prisoners.

2) The right to be free from unnecessary censorship of written material. There should be no censorship whatsoever of a prisoner's literary writings or of written communications to or from counsel, the courts, government officials or representatives of the media. There should be no censorship of written communications to or from any other person or of publications unless prison officials can establish the existence of a clear and present danger to the security of the prison.

3) The right to express and practice political, personal and religious beliefs. Prisoners have the right to hold any political or religious beliefs they choose, and prison officials should make reasonable accommodations for those beliefs. Moreover, prisoners should be able to express their beliefs unless prison officials can demonstrate a compelling interest in limiting such expression or practice. ACLU is concerned about prison practices which, in effect, discriminate between

religions, punish inmates because of their beliefs, and unduly restrict access to religious facilities, services, and documents. (See policy on Prison Chaplaincy.)

4) The right of personal privacy. Subject to legitimate health and security needs, prisoners should be allowed freedom in such matters as choice of clothing and hairstyle. They should also have a right to contact visits with family and friends. Listening devices should not be permitted in visiting booths. (See also policy on electronic eavesdropping regarding the use of TV surveillance in jails.)

5) The right to vote. Persons convicted of any offense, whether or not incarcerated, should not be deprived of the right to vote. Prisoners should be authorized to vote at their last place of residence prior to confinement unless they can establish some other residence in accordance with rules applicable to free citizens. [Board Minutes, January 28-29, 1984.]

6) The right to procedural due process. A prisoner should be provided with procedural due process before the prisoner can be punished for violation of a prison rule, or be subject to any further restriction. A parolee is entitled to these procedural rights before his or her parole can be revoked: a prompt preliminary hearing to determine probable cause reasonably near where the alleged violation took place; a prompt final hearing to determine whether the facts require revocation; at both hearings on the provision of legal counsel by the state if the individual is unable to pay, written notice of the claimed violation, disclosure of the evidence against the parolee, opportunity to be heard in person and to present witnesses and documentary evidence, the right to confront and cross-examine witnesses, a neutral and detached hearing body and a written statement by the factfinders of the evidence relied on and the reasons for revocation. [Board Minutes, April 16-17, 1983, January 28-29, 1984.]

7) The right to be free from unreasonable searches and seizures. Prison searches must be reasonable under both the Fourth and Fourteenth Amendments in manner and scope. Searches are unreasonable when used to harass or punish, or when the intrusiveness of the search goes beyond the security need which prompted it. There is generally no security justification for searching or seizing a prisoner's documents including but not limited to reading material, diaries, letters or photographs. Thus, prisoners have a right to maintain such materials as private, and any search or seizure of such materials must be conducted pursuant to a search warrant based upon the determination by a neutral and detached independent magistrate and there exists probable cause for the proposed search, and that the proposed search is otherwise reasonable. Furthermore, the power of law enforcement agents to search for after-the-fact evidence of a crime is no greater merely by the virtue of the fortuity that a suspect is imprisoned. [Board Minutes, January 26-27, 1985.]

* * *

(c) Broad and unjustified disabilities unrelated to any legitimate state interest should not be imposed upon ex-offenders. Society must absorb ex-offenders and offer them the chance for productive work and dignity or expect that they will return to crime. Thus, blanket denials of the opportunity for government employment or the right to vote, for example, impose additional punishment on the ex-offender and run against society's interest in increasing the person's alternatives to criminal activities. [Board Minutes, December 5-7, 1969, January 28-29, 1984.]

* * *

(d) The Union opposes municipal crime registration ordinances because they impose additional penalties for crimes for which individuals have already been penalized by the criminal law. They also discriminate against ex-offenders who have already served their sentences and could easily be used to harass such persons, thus frustrating the goal of reintegrating the offender into the community. [Board Minutes, May 21, 1951; Weekly Bulletin, January 18, 1965, January 28-29, 1984.]

(See also policy on Non-Resident and Employee Registration.)

Sentencing^{1/}

(a) The Least Restrictive Alternative Principle; the Preferability of Sentences Other Than Imprisonment; the Undesirability of Mandatory Sentencing Schemes.

Deprivation of an individual's physical freedom is one of the most severe interferences with liberty that the state can impose. Moreover, imprisonment is harsh, frequently counter-productive, and costly. There is, therefore, a heavy burden of justification on the imposition of a prison sentence.

A suspended sentence with probation should be the preferred sentence, to be chosen generally unless the circumstances plainly call for greater severity. Moreover, if some form of present punishment is called for, alternatives to incarceration such as community service or other intermediate punishments should always be the preferred form of the penalty, unless the circumstances plainly call for a prison sentence.

The most appropriate correctional approach is re-integrating the offender into the community, and the goals of re-integration are furthered much more readily by working with an offender in the community than by incarceration.

Probation should be authorized by the legislature in every case and exceptions to the principle are not favored.

Probation is preferable to imprisonment for many reasons: Probation maximizes the liberty of the individual while at the same time vindicating the authority of the law and protecting the public from further violations of law. Assuming that rehabilitation is a feasible goal, probation may promote the rehabilitation of the offender by continuing normal community and family contacts. Probation avoids the alienation and negative and frequently stultifying effects of confinement which often severely and unnecessarily complicate the re-integration of the offender into the community, which is necessary sooner or later in practically all cases. Probation may minimize the impact of the conviction upon innocent family members of the offender. However, probation cannot accomplish these objectives unless sufficient resources are allocated to assure that proper supervision is available, which means that case loads must be limited far below the levels prevalent today.

For those reasons, the harsh, counter-productive, and costly sentence of imprisonment is strongly disfavored and carries a heavy burden of justification by the government.

Since the ACLU views incarceration as the penalty of last resort, to be imposed only when no less restrictive alternative is appropriate, the ACLU opposes mandatory sentencing schemes that do not allow for non-incarcerating options.

^{1/} This policy is intended to apply to sentencing in non-capital cases. Capital sentencing presents some unique issues. See Policy #239.

* * *

(b) Restrictions Upon the Length and Severity of Sentences of Imprisonment

Prison sentences in the United States are imposed more frequently than necessary and are significantly longer than necessary in the vast majority of cases to serve any legitimate goal of punishment. The ACLU opposes excessive use of the option of incarceration and furthermore opposes sentences which violate principles of proportionality.

Sentences should be based on the nature of the offense and on relevant personal characteristics and circumstances of the defendant. For this reason, the ACLU opposes mandatory sentences of imprisonment or any other sentencing scheme that unduly restricts the judge's ability to engage in individualized sentencing. At the same time, however, any sentencing scheme must also include some protection against the possibility of arbitrary or discriminatory sentencing that arises when judicial discretion is completely unfettered. The legislature or the courts^{1/} may address the problem of disparity by structuring judicial discretion in a number of ways: formulating sentencing guidelines or sentencing benchmarks, enunciating rosters of aggravating and mitigating factors, or providing for meaningful appellate review of sentences.^{2/} Attempts to structure judicial discretion in sentencing should not degenerate into an excuse for wholesale increase in the use of incarceration. A legislative choice of a sentencing scheme that leads to an increased use of incarceration or to generally longer sentences should be opposed.

The problem of disparity and need for individualized sentencing should not be addressed by conferring undue discretion upon parole authorities to select the date of release. Parole authorities are generally less subject to due process constraints than are judges. Therefore, in an indeterminate sentencing scheme, the ACLU favors a system in which the judge at sentencing sets a presumptive parole release date which can be postponed by parole authorities only when justified by a finding that the prisoner committed serious disciplinary infractions during the period of confinement, but which may be advanced by parole authorities in appropriate circumstances.

Whenever appropriate, a prison sentence should require only partial confinement, thereby allowing an offender to maintain community ties. If appropriate, a prison sentence should allow

^{1/} Judicially created sentencing conventions should be generated by courts of sufficient authority that the problem of disparity in sentencing practices among neighboring localities is minimized.

^{2/} To allow a sentence to be increased on appeal would violate principles of double jeopardy. See Policy #238a.

offenders to find and maintain employment in the community. This is desirable because a cessation of employment may forever interfere with the offender's later reintegration into the community and because continued employment enables the offender to continue providing for his or her dependents. Accordingly, whenever appropriate, sentences of incarceration should either provide for work release during the period of confinement or for the confinement to take place only on those days of the week when the offender is not employed.

* * *

(c) Procedural Safeguards in the Sentencing Process

Sentencing procedures must be designed to allow fair sentences based on accurate information, and to avoid sentences that are arbitrary, discriminatory or based on improper factors. Sentences should not be based on characteristics such as race, gender, sexual orientation, citizenship, religion, political beliefs or associational ties. The sentencing process should not penalize defendants for their poverty or lack of economic status, or enable an affluent member of the community to avoid a sentence that would have been imposed on a less affluent individual on the basis that the defendant has suffered a loss of prestige due to conviction.

A sentence should be determined at a sentencing hearing at which defendant must be permitted to present any and all aspects of his or her record and offense which she or he believes are mitigating, including but not limited to: lack of prior criminal activity; age of the defendant; employment history; effects of mental or emotional disturbance, mental disease or defect, or intoxication through alcohol or drug ingestion at the time of the offense; existence of circumstances which the defendant believed to provide moral justification or extenuation of the offense; the effects of duress or domination by another person at the time of the crime; and, in the case of an offense committed by more than one perpetrator, the fact that the defendant was an accomplice and played a lesser role than the principal perpetrator in planning or committing the crime.

A sentence should not be enhanced by, and the sentencing judge should not be informed of or consider, prior arrests, prior bad acts, or any charges that have not resulted in conviction. A fair sentence also should not be based on the characteristics of the victim, except as relevant to culpability,^{1/} or on the reactions of the victim or members of the public to the offense.

^{1/} Thus, for example, characteristics that render a victim extraordinarily vulnerable to the harm against which the statute is directed might be relevant in an appropriate case while the fact that a victim was a wealthy or prominent member of the community would never be relevant.

In order to avoid the deplorable effects of passion and prejudice and in order to avoid the appearance that the process has been affected by these improper influences, a sentence should not be enhanced by, and the sentencing judge should not be informed of or consider victim impact statements.^{1/} In cases of multiple-count charging papers in which the defendant pled guilty to fewer than all of the charges or in which the defendant was convicted at trial of fewer than all of the charges, the judge should not consider the facts underlying any charge which was dismissed or of which the defendant was acquitted. Any information to be presented to the court in connection with a sentencing proceeding, whether in the form of presentence report or otherwise, must be supplied to the defendant and defendant's counsel in sufficient time prior to sentencing to permit a meaningful opportunity to investigate and contest any allegation not previously adjudicated. Defendant shall have the right to confront and cross-examine adverse witnesses at the sentencing hearing, and the government shall retain the burden of proving, at least by clear and convincing evidence, any previously unproven allegation the government offers to enhance the sentence.

The court's reasons for the sentence shall be stated in open court and on the record, and the court shall enter findings of fact as to all matters contested at the sentencing hearing. The judge shall specify the extent to which the sentence was enhanced by each aggravating circumstance presented and the extent to which the sentence was reduced by each mitigating circumstance presented. Sentences shall be subject to appellate review at the sole behest of the defendant for excessiveness, accuracy, and fairness of process, and may not be enhanced on appeal.^{2/}

The sentencing process must contain safeguards to ensure that individuals are not penalized for exercising their constitutional rights to trial instead of pleading guilty, or for exercising their constitutional right to trial by jury instead of a bench trial.

* * *

(d) Federal Sentencing Guidelines

In 1984, Congress enacted a Sentencing Reform Act, creating a federal Sentencing Commission and providing some principles for this commission to follow in formulating a new sentencing scheme for all federal offenses. The sentencing scheme first produced by the Commission conflicts with ACLU policy as articulated above in a number of ways. First, Congress and the Sentencing Commission took as their principal goal the elimination of disparity in

^{1/} See report from special committee on victim's rights.

^{2/} See Policy #238a: Double Jeopardy.

sentencing. While this object is commendable, the guidelines unduly favor uniformity in sentencing over the equally important goal of treating individual defendants fairly. The guideline sentences, based almost exclusively on the nature of the offense and prior criminal history,^{1/} pay insufficient attention to individual offender characteristics (see §5H1.1-5H1.6) and unduly restrict judicial discretion to consider such characteristics, thereby denying due process of law to individual defendants.

In addition, incarceration is usually the presumptive sentence for offenders under the guidelines. Probation, a desirable alternative for the reasons stated above, is rarely an available sanction under the guidelines. (See §5B1.1) The sentences of incarceration under the guidelines have generally been lengthened excessively.

Congress and the Commission have failed to provide an adequate mechanism for resolving disputes over factors made relevant under the guidelines. (See §6A1.3 and commentary.) Even if sentencing hearings with due process guarantees appropriate to the sentencing decision were provided, such hearings cannot substitute for a trial. The guidelines allow the sentencing process to be used to relieve the government of its burden of proving beyond a reasonable doubt what should have been elements of the crime charged (defendant's role in the offense, for example, is made a relevant factor in sentencing, see §§3B1.1-3B1.2), or to punish offenses not proven at trial (obstruction of justice during investigation or prosecution, for example, see §3C1.1).

Some of the factors made relevant to the sentencing decision should not be permissible considerations as framed. A defendant's acceptance of responsibility (see §3E1.1) is a permissible mitigating factor, but should be considered irrelevant to the extent that defendant's attitude is being judged on the basis of conduct protected by the Fifth Amendment guarantee against self-incrimination. The criminal livelihood provision (see §4B1.3), enhancing sentences of those who derive a "substantial portion of income" from a "pattern of criminal conduct," is objectionable as vague, as potentially discriminating against the poor, and as potentially leading to a disproportionate sentence for the crime charged.

Furthermore, the guidelines overly restrict defendants' ability to challenge their sentences. Defendants should have the right to seek revision of their sentences at any time.

The treatment of youthful offenders under the guidelines is also problematic. The elimination of the Youth Corrections Act

^{1/} The few other factors considered relevant--defendant's "criminal livelihood," factors relating to the nature of the crime victim, public concern over the crime and defendant's acceptance of responsibility--are of questionable legitimacy, for reasons described infra.

stigmatizes youth, as does the aggravation of sentences on the basis of prior adjudications while defendant was a juvenile. See §4A1.2(d).

* * *

(e) Fines or Restitution as an Alternative to Incarceration

The ACLU favors the use of fines or restitution^{1/} as an alternative to incarceration. Because of the potential for discrimination on the basis of economic status inherent in the use of fines, restitution, or any other financial obligation imposed, however, their amount and terms of payment should be set according to a defendant's ability to pay. In addition, the imposition of the terms of incarceration for non-willful failures to pay fines should be prohibited and the use of community service should be encouraged as an alternative enforcement mechanism for willful non-payment.

* * *

(f) Expenditures on Corrections: Creation of Community Based Programs; Restrictions Upon Construction of Prisons and Jails

The first priority of any expenditures on corrections should be the creation of community-based treatment programs (including, but not limited to drug and alcohol treatment programs, vocational training programs, counseling programs, and half-way houses.)

The priority in prison and jail construction must be the elimination of existing unconstitutional conditions; new prison and jail capacity should be added, if ever, only if:

1) such jail or prison construction furthers the compelling civil liberties interests of eliminating unconstitutional or unreasonably harsh conditions in existing facilities; and assuring that any new prisons or jails are placed in reasonable proximity to the home communities of the inmates;

2) all possible steps (short of new construction) have been taken to remedy conditions which are unconstitutional or unreasonably harsh in existing facilities;

3) the need for such additional capacity has been demonstrated in light of sentencing policies which would ensure that imprisonment be used only when alternatives, such as early release programs, the elimination of mandatory sentencing laws, the end of the current practice of returning persons to prisons for technical parole violations, and the greater use of

^{1/} In addition, restitution should not be a civil penalty but should embrace the objectives of the criminal law and be consistent with the position to be adopted by the ACLU Special Committee on Victim's Rights in the criminal process.

alternatives to incarceration, such as work furloughs, community release, and community-based residential correctional programs, will not suffice and which would furthermore ensure that imprisonment be used only where appropriate to the offense. [Board Minutes, March 4-5, 1978; January 26-27, 1985; January 26-27, 1991.]

(See also policy on Prisoners, Parolees, Probationers and Ex-Offenders.)

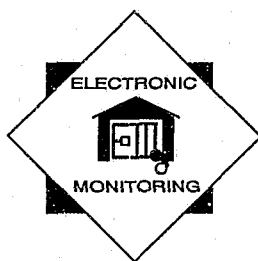
Electronic Monitoring of Prisoners

Consistent with Policy #242, the ACLU supports programs such as electronic monitoring for the purpose of restricting movement/house arrest as an alternative to incarceration where the particular program does not result in erosion of constitutional rights. Minimally, any such program must (a) comport with equal protection guarantees,^{1/} (b) provide Fourth Amendment protections,^{2/} and (c) include objective legal standards so that individuals are not subject to electronic monitoring for the purpose of restricting movement/house arrest who would normally qualify for bail, release on personal recognizance, probation or parole.^{3/} Determining whether particular programs are consistent with Policy #242 will necessitate case-by-case considerations and on-going monitoring to evaluate the actual effects of the program. [Board Minutes, October 13-14, 1990.]

^{1/} By way of example, a program would be unacceptable where an indigent defendant could not qualify because the government required the individual to bear the expense of a "suitable" residence or telephone. In addition to economic discrimination, such requirements would have a racially disparate impact. For individuals incarcerated prior to conviction, such economic requirements would violate Policy #219 on bail.

^{2/} See Policy #241 regarding the privacy interests of prisoners, parolees, probationers and ex-offenders. Where the individual is on probation or parole, the ACLU has repeatedly argued that the parole officer must have a warrant or probable cause to enter or search the individual's home.

^{3/} See Policy #219 on bail and Policy #242 on sentencing. Whether a particular program will result in greater restraints on liberty will be initially difficult to determine. Therefore, to be acceptable to the ACLU, any such program must adopt objective legal standards to assure the least restriction on the individual's liberty. Such a program must also provide a mechanism to monitor the application of the standards and their effect.



APPENDIX 3:

AMERICAN BAR ASSOCIATION

RECOMMENDATIONS AND POLICY

ABA, 1988

AMERICAN BAR ASSOCIATION
1800 M Street, N.W.
Washington, D.C. 20036
Fax Number: 202/331-2220

|||||
FAX TRANSMITTAL COVER SHEET
|||||

TO: Ted Forgach

Recipient's Fax Number: 602/571-9228

Recipient please call to confirm. (Sender check one) YES ___ NO ___

SENDER: Ken Goldsmith

DEPT: American Bar Association, Criminal Justice Section

Confirmation/trouble phone 202/331-2623

Contact name: Ken

Date sent: January 4, 1994 **Time sent:** 4:45 p.m.

Number of pages: (including cover sheet): 12

MESSAGE: Here is the policy, as approved at the 1988 Annual Meeting by the ABA House of
Delegates in August if that year. I have also included the report and supplementary
pages. Any trouble, or if you want additional documents, just let me know.

AMERICAN BAR ASSOCIATION
CRIMINAL JUSTICE SECTION

REPORT TO THE HOUSE OF DELEGATES

RECOMMENDATION

BE IT RESOLVED, That the American Bar Association approves 1
the following "Principles for the Use of Electronically 2
Monitored Home Confinement as a Criminal Sanction": 3

1. A sentence may include home confinement monitored 4
by an electronic monitoring device if the judge 5
finds, on the record, that such electronic 6
monitored home confinement is the least 7
restrictive alternative which should be imposed 8
consistent with the protection of the public and 9
the gravity of the offense. 10
2. In no event should a court or probation office 11
automatically require electronic monitoring as a 12
condition of probation. 13

3. The ability of an individual to pay for the use of an electronic monitoring device should not be considered in determining whether to require the use of such a device when imposing sentence.

REPORT

During the last several years, a number of electronic devices capable of monitoring the presence of an individual at a given location have been developed. These devices have been developed and used to enforce curfews, to permit home-based work release, and to permit individuals to serve incarceration sentences at home.¹ Although the terms used to describe the forms of confinement vary, three types of home confinement are generally recognized:

1. curfew - requiring the individual to be home during established hours;
2. home detention - requiring the individual to be home except for periods of work or study or other permitted absence; and
3. home incarceration - requiring the individual to remain at home at virtually all times.²

Electronic monitoring devices transmit information regarding the presence or absence of an individual at a particular location from a remote location. There is a broad range of such devices. Most use a radio transmitter and receiver interconnected with a telephone which permit the monitoring agency, at randomly selected times, to determine whether an individual is on the premises where the telephone is located.³

These devices have made home confinement more practicable, since they provide greater assurance that the individual will remain at home. As a result, the use of these devices has grown substantially in recent years. Although the exact number of jurisdictions employing home detention for offenders is unknown, the literature reveals that most states have considered such a program.⁴

It is not the purpose of these principles to approve or disapprove of the use of home confinement as a sanction. Rather, recognizing that home confinement is in fact being employed as a sanction in a large number of jurisdictions, it is important to outline some of the limiting principles that should govern its choice as a sanction without resolving the policy question whether it is an appropriate sanction.

In determining what sanction should be imposed, the ABA has adopted a policy that is embodied in Standard 18-2.2(a) of the Standards for Criminal Justice, requiring that the sentencing court impose the "minimum sanction which is consistent with the protection of the public and the gravity of the crime."⁵ Under this Standard, a sentence to home confinement would be appropriate when such home confinement is the least onerous means of protecting the public while ensuring that the gravity of the offense is not depreciated.

Some people argue that home confinement monitored by electronic monitoring devices should only be employed on individuals who would otherwise have been incarcerated. These people fear that electronic monitoring, an essentially incarcerational sanction, will otherwise "widen the net" of governmental control for persons who would have been placed on probation with minimal supervision or sentenced to confinement at home.⁶

Limiting home confinement to persons who would otherwise be incarcerated in prison or jail, however, would conflict with Standard 18-2.2(a)'s emphasis on public protection. At present, for a variety of reasons (e.g., prison overcrowding and limited resources), a number of offenders who have committed serious crimes are placed on probation. Traditional probation may be ill-equipped to deal with some of these offenders, the result being high recidivism rates.⁸ Home confinement might therefore become the only proper sanction that will accomplish both goals of the Standard.

As the statistics on recidivism reveal, a probation sentence in a jurisdiction that relies largely on probation officers for surveillance and control of the probationer may not be "consistent with the protection of the public and the gravity of

the crime." Such a sentence may have been imposed in the past, however, because of a lack of sentencing alternatives. With the advent of home confinement monitored by electronic monitoring devices, judges now have available to them a sentencing sanction whose imposition, in certain circumstances, will permit the objective of Standard 18-2.2(a) to be met.

The concern that the availability of electronically-monitored home confinement will be overused and unduly "widen the net" of governmental control over the citizenry is, however, a legitimate one. There is a risk that as the cost of electronic monitoring devices go down, judges will begin to perfunctorily include home confinement as a condition of probation. Therefore, steps need to be taken to ensure that persons for whom traditional probation would be appropriate are not unnecessarily subjected to the greater constraints that attend electronically-monitored home confinement.

Consequently, although the first sentence in Principle 1 tracks the language of Standard 18-2.2(a), the second sentence creates a rebuttable presumption that individuals who would have been placed on probation in the past should not be sentenced to electronically-monitored home confinement. As an additional safeguard, a sentencing judge who sentences an offender to electronically-monitored home confinement must state on the record that this sanction is the minimal sanction that will protect the public and not depreciate the seriousness of the offense.⁹

An electronically-monitored system of home confinement necessitates the expenditure of funds for the monitoring equipment. As the costs for this equipment are in practice frequently imposed on the individual under supervision,¹⁰ there is the risk that this sanction will be reserved for the economically well-to-do while poor persons will be consigned to prisons or jails. Because the potential for economic bias is so great when deciding whether or not to impose this sentencing sanction, Principle 2 reminds courts to avoid this bias.

These recommendations do not purport to resolve a number of issues concerning the use of electronically-monitored home confinement. They deal only with the use of home confinement as a sentencing

disposition, and do not address privacy issues or questions concerning its use as a method of release on bail. These and other issues concerning the use of electronically-monitored home confinement will be studied and addressed in future ABA recommendations.

In general, though, jurisdictions are urged to be cautious at this time in employing electronically-monitored home confinement as a sanction. While the devices promise a less costly method than prison for punishing less violent felons who require a sanction more severe than probation, care must be exercised to ensure that unintended consequences and undesired results do not attend the use of this sanction.

Respectfully submitted,

John M. Greacen, Chairperson
Criminal Justice Section

August 1988

FOOTNOTES

1. For a discussion the use of these devices, see P. Hofer & B. Maierhoefer; Home Confinement: An Evolving Sanction In The Federal Criminal Justice System (Federal Judicial Center 1987).
2. To minimize confusion, the terminology employed by the Federal Judicial Center is here adopted. The Federal Judicial Center has defined the three types of home confinement as follows:

"Curfew: Curfew is a type of home confinement that requires offenders to be at their residence during limited, specified hours, generally at night. Such a condition is a common component of intensive supervision programs. It is the heart of the curfew release program recently implemented by the U.S. Parole Commission and the Federal Bureau of Prisons, in cooperation with the federal probation system. Programs including curfew vary widely in the strictness of supervision, though most call for more officer-client contact than required under normal probation. Many require participation in treatment, training, or drug testing; payment of fees, fines, or restitution; and, community service."

"Home Detention: More severe than curfew, home detention requires that offenders remain at home at all times, except for employment, education, treatment or other times specified for the purchase of food or for medical emergencies. The offenders' freedom to go where they please is completely restricted, though they may remain employed, go to treatment programs, and continue to support their families and pay fees or restitution. Free time must be spent at home. Home detention, if strictly enforced, is more punishing than curfew and affords greater control over an offender's activities."

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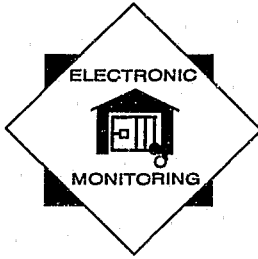
"Home Incarceration: Incarceration at home is the most severe form of home confinement; the home substitutes for the prison. Offenders are to remain there at all times with very limited exceptions (e.g., religious services or medical treatment). Under this condition, offenders are precluded from shopping, from working, or from having visitors outside prescribed hours. In some cases offenders may not even be allowed to go outside into their yards. The goal is to punish and maintain control over the offender. In the words of the developer of an early home incarceration program, 'We're not sending them home to have a good time.'"

Id. at 6. The term "house arrest" here is eschewed because of the association of the term with political prisoners.

3. For a discussion of the types and operation of these devices see: A. Schmidt, "Electronic Monitors," 50 Fed. Probation 56 (1986).
4. Joan Petersilia reports the result of a survey revealing that 42 states have or were considering such programs. J. Petersilia, "Exploring the Option of House Arrest," 50 Fed. Probation 50 (1986).
5. Standards for Criminal Justice, Standard 18-2.2(a). The comments indicate that the policy reflect what is known as the "principle of parsimony," a principle widely accepted by penological writers both liberal and conservative. See, e.g. N. Morris, *The Future of Imprisonment* 60-62(1974); A. Von Hirsch, *Doing Justice* 90--94 (1976); E. Van Den Haag, *Punishing Criminals* 191-95 (1975); R. Singer, *Just Deserts* 44-48 (1979).
6. The potential for these devices to widen the net of correctional supervision has been noted by several writers. See e.g., P. Hofer & B. Meierhoefer, *Home Confinement: An Evolving Sanction In The Criminal Justice System* 63-65 (Federal Judicial Center 1987).
7. A recent study conducted for the National Institute of Justice, for example, reported that 40% of the probationers in California in 1983 had been arrested for homicide, rape, robbery, assault, or burglary. J. Petersilia, S. Turner, J. Kahan, J. Peterson, *Granting Felons Probation: Public Risks and Alternatives* (1985) (hereinafter referred to as the Rand report).

8. For example, the Rand study found that during a 40-month period, 65% of the felony probationers studied were rearrested, 51% were reconvicted, and 18% were reconvicted of serious, violent crimes -- homicide, rape, weapons offenses, assault, or robbery. Id.
9. Since the process to be followed when imposing sentence is already discussed in Standard 18-6.6 of the Criminal Justice Standards, there is no need to include a more detailed statement about this process in the recommendation.
10. P. Hofer & B. Maierhofer, Home Confinement: An Evolving Sanction In The Criminal Justice System 41-43 (Federal Judicial Center 1987).

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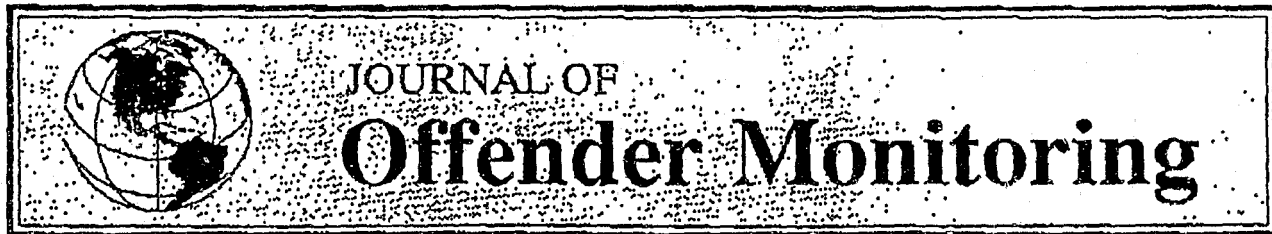


APPENDIX 4:

**ENFORCEMENT ISSUES IN
ELECTRONIC MONITORING OF
PROBATIONERS**

ARTICLE

JOURNAL OF OFFENDER MONITORING
FALL, 1993



Volume 6 Number 4

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Fall 1993

Enforcement Issues in Electronic Monitoring of Probationers

BY CHERYL G. SWANSON & DANIEL M. WARD*

One of the promises of electronic house arrest is that it can free the probation officer from surveillance activities that are both expensive and inefficient. An area that has not been examined, however, is the extent to which computer generated violation reports can be used as an enforcement tool. Given uncertainty over the reliability of the monitoring equipment and possible legal challenges, we expected that there would be few cases where probation has been revoked based on a computer violation report when there is no corroborating evidence, such as a follow-up phone call or home visit by the probation officer.

To test this proposition, we examined probation revocations in 16 states and found that it is very uncommon to use a system's detection of violations as the sole piece of evidence in court. There appears to be a significant need for human involvement in the

enforcement process. The legal system has not yet challenged the few cases where offenders have been deprived of their liberty, and therefore, the courts have yet to take a position on this issue. Our findings also show that in the absence of case law, probation agencies have not developed policies on this issue. Decisions to return an offender to court are left to individual field officers or to local policy.

Issues in Elec
n Probation

INTRODUCTION

The use of electronic devices to supervise probationers has received considerable interest in the corrections community. The pressures created by prison overcrowding and the cost savings (Friel and Vaughn, 1986) offered by electronic monitoring (EM) have made it a promising alternative to incarceration. The criticism that probation does not provide adequate supervision to protect the public (Petersilia et al, 1985) or adequate punishment to

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The long-awaited electronic monitoring census should reach your agency during the first week of January. If you have not received it by January 10, 1994, please call my University office at (816) 643-4188 and request a copy.

Best wishes for a safe and happy holiday season.

Joe Vaughn
Editor

satisfy the public's need for retribution (Morris and Tonry, 1990) has contributed to the notion that intermediate sanctions, such as electronic house arrest, should be more widely adopted.

Electronic monitoring offers the benefit of more effective enforcement of curfews used in house arrest, which heretofore have required personal visits that have been both expensive and time-consuming (Nellis, 1991). Theoretically, this technology can free probation officers to make better use of their time, spending it on activities related to offender remediation.

Electronic monitoring equipment receives information about monitored offenders and transmit the information over telephone lines to a computer at the monitoring agency. There are two basic types: continuously signaling devices that constantly monitor the presence of an offender at a particular location (sometimes called "active" systems) and programmed contact devices that contact the offender periodically to verify his or her presence (sometimes called "passive" systems).¹

Equipment used in the active system consists of three major parts: a transmitter, a receiver-dialer, and a central computer. The waterproof transmitter, which is attached to the offender (often to the ankle), sends

out a continuous signal. The receiver-dialer, which is located in the offender's home and is attached to the telephone, detects the signals sent by the transmitter. It reports to the central computer when it stops receiving the signal and again when the signal begins. The signal is broken when the offender leaves a restricted area, usually 150 feet from the transmitter. A central computer at the monitoring agency accepts reports from the receiver-dialer over the phone lines, compares them with the offender's curfew schedule, and alerts correctional officials about any unauthorized absences. When entry into or departure from the restricted area is made at a time when the defendant is required to remain at home, the computer printout states "violation" (Schmidt, 1990).

It reports to the ce

The programmed contact system uses a computer programmed "robot" to telephone the offender during the monitored hours, either randomly or at specified times. Some systems have a verification device. One type requires a black plastic module to be strapped to the offender's arm. When the computer calls, the module is inserted into a verifier box connected to the telephone (Schmidt, 1990).

A receiver dialer or

While electronic house arrest is a promising alternative to incarceration, it is not without its critics (Corbett and Marx, 1991).

(Schmidt, 1990).

Evaluation studies have suggested that EM does not reduce and might actually increase overall correctional costs due to net widening (Palumbo et al., 1990). Petersilia (1990) found that recidivism in Los Angeles as measured by re-arrest was just as high for those on probation with EM as those under probation supervision without EM. Other studies identify technical problems caused by poor telephone lines, poor wiring and "call-waiting" features, proximity of an FM radio station or other strong radio wave broadcaster, and environmental conditions such as lightning (Corbett and Marx, 1991; Papy and Nimmer, 1991; Schmidt, 1990). An interview with one user reported that the system was accurate eighty-five percent of the time in monitoring violations (del Carmen and Vaughn, 1986).

While a variety of approaches have been used to evaluate EM, the literature review suggests an important area that has not been systematically examined. This is the area of enforcement. For a system of intermediate punishments to be accepted as credible by the offender and the public, it must be "backed up" by an enforcement mechanism or sanctions that takes violations seriously (Morris and Terry, 1990). Revocation is the most serious action that can be taken in response to a violation by an offender. Preliminary in-

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interviews with local probation officers suggests that it is sometimes difficult to corroborate computer generated absences, and that ambiguity exists over the type of evidence necessary to revoke a probationer who has violated curfew.

In a case filed in a New York District Court, (*New York v. Ryan*, 1987), the court revoked probation based on the computer violation and the offender's admission that he had left the premises. However, the court noted that "more in-depth scientific and technical testimony may be necessary in a case where a defendant charged with a violation has not made an admission or in an instance where there is an issue of credibility pertaining to a claimed admission" (*New York v. Ryan*, 1987).

Given questions which may be asked about the reliability of the "machine," can the computer printout be used to revoke probation when there is no other corroborating evidence such as the offender's admission, or the officer verifying the absence through a phone call or home visit? To answer this question, we examined patterns of probation revocation at a number of sites throughout the country.²

METHODS

Since there are sufficient ambiguities in the system to cast

doubt on the accuracy of the violations reported by the computer, and because of the possibility of legal challenges, it was expected that there would be few if any cases where probation was revoked solely on a computer generated violation report. If any cases were identified, a description of circumstances surrounding the case would be provided. The role of electronic monitoring in the enforcement of curfews was further examined by looking at how unverified absences are processed and by examining the extent to which verified absences are sanctioned by revocation.

Questionnaires were distributed to all state probation supervisors who supervise EM probation caseloads in states where probation services are administered through an executive department.³ Although not a national sample, this strategy was chosen as an efficient way to identify and secure participation of personnel from a broad range of jurisdictions. Eighteen states supervise EM probationers through a state executive department. Only one state refused to participate in the study and no questionnaires were returned from a second state.

Two hundred seventy-six (276) questionnaires were distributed and 218 (seventy-nine percent) were returned from the 153 sites in sixteen states. We requested that the survey be

completed by an EM probation supervisor, but in several jurisdictions the supervisor requested that the questionnaire be completed by the line officers directly responsible for supervising EM cases. The organization of probation services differs in each state with states divided into regions, districts, and local units. Some offices had several unit supervisors or several officers supervising EM cases. Therefore, the number of respondents exceeds the number of sites.

The questionnaire asked respondents to specify the number of EM revocations for probation caseloads during the 1992 calendar year. It instructed respondents to specify the number of revocations that occurred under each of four conditions, including the number of revocations that were based solely on a computer generated violation with no supporting evidence. Respondents were also asked to provide legal information about these cases for further clarification. Additional questions solicited information about the operation of their EM program. Follow-up interviews were conducted with a number of probation supervisors and agents to assess their perceptions about the use of the computer printout to revoke probation.

Table 1
Distribution of 1992 Probation Revocations by Type as Reported by
Probation Supervisors/Agents in Sixteen States

Revocation Type	Number	Percent
Revoked solely because computer said case not at home.	4	0.4
Revoked because computer said case not at home plus other supporting evidence such as the officer making a home visit or phone call to verify.	340	31.8
Revoked because of computer generated violation in addition to violation of other conditions (e.g. monetary obligations, etc.).	458	42.8
Revoked solely on other conditions violated and not due to computer generated violations.	267	25.0
Total	1069	100.0

RESULTS

Unverified Absences and Probation Revocation

A total of 1,069 EM revocations were reported for the calendar year 1992. The number of EM probation revocations that were reported ranged from none for some respondents to as many as 76 for others. Table 1 shows how the reported revocations are distributed by revocation type.

We predicted that few revocations would be made solely on a computer violation report with no supporting evidence. This prediction is supported by the data. For the 1992 time period, there were only four cases re-

ported where probation was revoked under this condition. These cases represent less than one percent of the total. More significantly, they occurred at only two of the 153 sites surveyed. These types of revocations are clearly not common in the sixteen states.

Conditions Associated With Computer-Based Revocations

In Birmingham, Alabama, a single case was reported where probation was revoked based solely on a computer violation report. This case involved a youthful offender who had been assigned to adult probation and was revoked on the basis of sixty violations recorded by the com-

puter. The probation officer who brought the case to court was thoroughly cross-examined by the defense attorney about the reliability of the monitoring system, but was supported by the judge who was described as a strong supporter of electronic monitoring.

Respondents from Wilmington, Delaware, identified a total of three revocations based solely on computer generated violations.⁵ In a follow-up interview, the nature of relationships with judges was identified as a key factor influencing revocation outcomes in these cases. In Wilmington there are few officers who work with electronic house arrest. The judges know

these officers well and trust that the officers will not bring cases to court unless they believe the equipment is reliable.

Two sites in Michigan did not supply 1992 revocation data due to data retrieval problems, but did report a practice of sometimes using the printout as the sole piece of evidence in court and having its validity upheld. Two sample cases were provided to support this point. In one of these cases, however, the violation sentence did not result in probation being revoked; instead a sanction of further supervision after EM was imposed. In the second case, the offender pled guilty to a curfew violation in a plea agreement where two additional charges were dismissed, one curfew and one non-curfew, so that the reliability of the machine was not an issue. These cases do suggest, however, that uncorroborated electronic violations may be more acceptable to the court when alternative sentencing to revocation is used.

Finally, during follow-up interviews, two cases were identified where probation was revoked in 1993. These occurred at two separate sites in North Carolina. The large number of curfew violations (twenty-five to thirty) reported in a two or three month time period was a major factor in one of these cases. In the other case, the number and pattern of violations which suggested late

night drug transactions was a major factor in the other. Most of the violations had not been independently verified so that both cases relied on the "testimony" of the electronic equipment. In one case, the revocation is under appeal. In both cases the offenders faced charges in another court, although this information was not formally introduced at either revocation hearing.

Legal Uncertainty and Departmental Policies

Since there were very few revocations based solely on computer-generated violation reports, we used follow-up telephone interviews to examine the reasons. Individuals were selected for follow-up interviews on the basis of comments and information they had provided on the questionnaire. Interviews were also conducted with officials from BI Incorporated, the nation's largest supplier of monitoring systems. This fact was not formally introduced

Legal uncertainty emerged as the major reason why unverified violations are not likely to lead to revocation. Respondents referred to defense attorney objections, valid excuses the offender could provide as to why they weren't home, and the probability that local judges would find it difficult or objectionable to support such a case, as reasons why there were no revocations of this type in their juris-

dictions. Several individuals comment that given the volume of court cases and the problem of prison overcrowding, this type of case would be seen as weak. Because these perceptions are fairly widespread, a set of organizational traditions (Clear, et al, 1991) has developed where the probation officer is expected to investigate violations reported by the computer to obtain supporting evidence before returning an offender to court.

In the follow-up interviews we were interested in determining the extent to which the probation staffs' perceptions of equipment reliability would deter them from returning a case to court based solely on a computer violation report. Perceptions varied by site. For example, one supervisor said that she would not choose to return an uncorroborated electronic violation to court because there are too many errors in their system. She attributed the errors to case overload, and said that if the system could be upgraded, she would consider going to court.

In Florida, probation officers noted that they generally had faith in the equipment, but that electrical storms prevalent to the area were a source of false positives. In contrast, probation officers who reported using the printout as the sole piece of evidence in court expressed confidence in the reliability of the equipment

Table 2
Distribution of Responses on How Unverified Curfew Violations are Most Frequently Processed as Reported by Probation Supervisors and Agents in Sixteen States

Action Taken	Number	Percent
Verbal Warning.	144	67.0
Informal Sanction.	15	7.0
Violation.	14	6.5
Combination of the above.	20	9.3
Other	22	10.2
Total	215	100.0

and/or in the officer's ability to interpret the computer report and eliminate the possibility of false positives.

Some concerns focused less on the reliability of the machine and more on the ethics of removing the human element from decision-making. One probation supervisor commented that he would not personally bring a case to court based solely on the computer printout because of his belief that the client should be given the benefit of the doubt. He observed, "It is a good machine, but only a machine." Expressing a similar perspective, a Vice-President from BI Incorporated, a monitoring system supplier, said that philosophically he had trouble with using "just a machine" to send someone

to prison.

In spite of these issues, none of the states in our survey have a departmental policy forbidding agents to return a case to court based solely on a computer generated violation report. The absence of policy supports the proposition that there continues to be a great deal of ambiguity surrounding the issue of enforcement.

Respondents from North Carolina stated that they do not have revocations on uncorroborated electronic violations due to a state-wide policy of following-up on all absences with a 24 hour response team. As one probation supervisor noted, "A warm body goes out every time there is an electronic violation." It was

necessary for the state to adopt this policy to gain the cooperation of judges who were concerned with adequately protecting the public. However, while North Carolina's policy may have reduced the problem of verifying absences, it has not eliminated it. During the day, it may be difficult to verify violations because officers are attending to other business. There is lag-time between when the office computer records the violation, the officer receives the report, and when the officer reaches the probationer's residence. By the time an officer makes a follow-up contact, the probationer may have returned home. The two 1993 cases referred to earlier were returned to court in North Carolina with the majority of violations unverified due to these reasons.

Processing Unverified Curfew Violations

From a list of possible options, the mail survey asked respondents to specify how they most often process cases that show electronic violations when there is no supporting evidence. The results are shown in Table 2. The majority of the respondents issue a verbal warning. Only a small percentage of respondents identified the use of additional sanctions such as further restrictions on the offender's movements or sending the offender to jail for the weekend. Some noted

that they would take more serious action, such as filing a violation report with the court after repeated warnings went unheeded. In the follow-up interviews, a number of respondents commented that usually when curfew violations become chronic, the person has committed numerous additional violations or has absconded.

Some respondents reported that they were able to "verify" a computer reported violation by the use of a confession. A former probation officer and current Vice President with BI Incorporated, recalled his practice of waiving the printout in front of the probationer which usually produced a confession that would enable the probation to be revoked. A probation officer in Delaware noted that defendants may deny an unauthorized absence until they appear in court where they eventually plead guilty because it is more difficult to lie to the judge.

Verified Curfew Violations

To what extent are verified curfew violations sanctioned by revocation? We return to Table 1, where almost one-third of the revocations were primarily the result of a verified curfew violation. Another forty-three percent were revoked on the basis of a curfew violation, plus a violation of other conditions (such as failure to pass a drug test). One

fourth of the revocations were based only on non-curfew violations. Again, follow-up interviews were helpful in interpreting the findings.

Several probation supervisors and agents commented that given prison overcrowding and the volume of cases, a person with several unauthorized absences would probably not be revoked. Others reported that usually a probation with multiple leave violations had also violated other conditions, and those violations provided leverage for revocation. As noted earlier, many probationers, who accumulate a number of curfew violations also abscond. The 31.8 percent figure in Table 1, includes absconders (we were unable to determine their proportion) and for this reason can not be interpreted as an enforcement pattern based on curfew violations *per se*. Finally, when the data were aggregated by state, we found considerable variation across jurisdictions. For example, over forty percent of the 1992 revocations reported in North Carolina, which has a twenty-four hour response capability, were primarily curfew based. On the other hand, the figure for many of the other states was much lower as in Oregon with fourteen percent.

CONCLUSION: The 31.8 percent figure includes absconders and for this reason can not be interpreted as an enforcement pattern based on curfew violations *per se*. Finally, when the data were aggregated by state, we found considerable variation across jurisdictions. For example, over forty percent of the 1992 revocations reported in North Carolina, which has a twenty-four hour response capability, were primarily curfew based. On the other hand, the figure for many of the other states was much lower as in Oregon with fourteen percent.

that it is not common to use the electronic monitoring technology as the sole piece of evidence in court. This suggests the need for significant human involvement in the enforcement process. Probation departments have developed a variety of methods to verify computer violation reports ranging from questioning family members, confronting the probationer, or using information provided by twenty-four hour response teams. As with previous technological advances, i.e. breathalyzer testing for DUI and radar traffic equipment, their reliability must be proven over a period of time through the legal process. At this time, EM has not reached that stage of advancement. The human factor is still required to insure not only the protection of the community, but also the rights of the offender. The legal system has not yet challenged the few cases where offenders have been deprived of their freedom, therefore, the courts have yet to take a position.

In addition, the findings suggest that probation agencies have not seen the need as yet, to issue department policies based on the absence of case law. Decisions whether to return an offender to court are left to individual field officers or local policy. In the absence of agency policy or case law, the field staff return very few offenders to court based solely on an electronic violation. Then, to what advantage is the

electronic monitoring system?

At this time it appears to be only an additional tool in the probation officer's repertoire of supervisory controls. It provides information as to an offender's whereabouts, as well as mobility patterns. It establishes time and place, which is very helpful in the process of surveillance. As new technological advances are made in the future, the system's worth will increase proportionally. Future cases will be tested in the courts and it is likely that the validity of system detected violations will be more firmly established.

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ENDNOTES *County, First*

*Cheryl G. Swanson is at the University of West Florida. Daniel M. Ward is employed by the Florida Department of Corrections.

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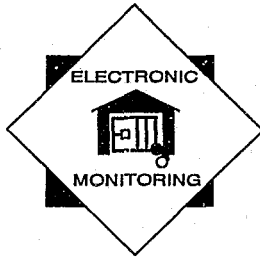
¹A type of hybrid equipment has been introduced by several manufacturers that functions as a continuously signalling device and also functions similarly to a programmed contact device by contacting the offender when the computer notes he or she has left at an unauthorized time for purposes of verification.

²While EM is used to supervise parolees, pretrial detainees and others, this study focuses only on probation supervision.

³An exception was Florida. To minimize disruption of its operations, the Florida Department of Corrections requested that we limit the distribution of our questionnaire to two probation offices in each of the Department's five regions.

⁴In the United States, the majority of probation is administered through state executive departments and through the state courts.

⁵After several requests we were not able to obtain the release of legal information from the Wilmington office on the three cases.



APPENDIX 5:

**ELECTRONIC MONITORING EQUIPMENT:
1991 SURVEY**

ARTICLE

*JOURNAL OF OFFENDER MONITORING
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Ohio Issues Proposed Certification Rules

Ohio has codified its state law which governs electronically monitored house arrest, certification of monitoring devices and establishment of a device fund. Section 2929.23 of the Ohio Revised Code requires the Attorney General's Office to certify equipment as meeting the statutory requirements. The certification process will be accomplished through the Bureau of Criminal Identification and Investigation. The proposed regulations (Rule 109:5-1-02) titled "Certification of Electronic Monitoring Devices," have been issued by the Attorney General and were the subject of a public hearing on June 17, 1991. At press time final approval had not been given the proposed regulations.

The proposed rule provides that a manufacturer may obtain certification of a specific type or brand of electronic monitoring device by submitting an application to the Superintendent of the Bureau of Criminal Identification and Investigation. The

Superintendent may require the manufacturer to submit specifications, supporting documentation and to submit or make available for inspection actual samples of the transmitter, receiver and central monitoring computer.

In order to be certified, an electronic monitoring device must have a transmitter which satisfies all of the following: (1) it can be worn by or attached to a person with a minimum of discomfort during normal activities;

(2) it will transmit a specified signal to a receiver of the type specified in the regulations if the transmitter is removed from the person, turned off, or altered in any manner without prior court approval, or is otherwise tampered with; (3) it can transmit continuously and periodically a signal to the receiver when the person is within a specified distance from the receiver; (4) it can transmit an appropriate signal to the receiver if the person to whom it is attached travels a specified distance from the receiver; and,

Special Issue Focus: Electronic Monitoring Equipment Comparison

Beginning on page 4, this issue highlights the existing electronic monitoring equipment from vendors who were able to respond to a survey conducted by the *Journal* at the request of its readers.

Forthcoming in the Fall Issue will be a report from Dr. Marc Renzema on the annual census of monitoring programs. Agencies who have still not replied to the survey are urged to do so. If you were inadvertently missed in the survey, please contact Dr. Renzema at (215) 683-4237.

Electronic Monitoring Equipment: 1991 Survey

INTRODUCTION

There have been many surveys of manufacturers conducted over the past several years which documented the then existing equipment. Perhaps the most cited have been those conducted by Friel, et. al. for the National Institute of Justice (1986) and the two surveys prepared by Dr. Marc Renzema (1988) for publication in the *Journal*. Numerous agencies have conducted surveys for their internal planning purposes which also identified equipment specifications. Although no less valuable, these surveys were not widely distributed.

Much has changed since the surveys which were last published in the *Journal* by Dr. Renzema. Indeed, one of the more difficult tasks is to stay current on modifications and enhancements made by vendors to equipment. While dramatic improvements have been made, the industry is still probably in an evolutionary stage. This makes providing timely and accurate information more difficult. In some cases, the data have changed by the time they are published. It is also more difficult for vendors to respond to information requests: as the field grows so do constraints on their time.

In May of 1991 a somewhat lengthy questionnaire was sent by certified mail to the fifteen known manufacturers of electronic monitoring equipment in the United States. All but one of the manufacturers received the questionnaire. In that one case, the manufacturer refused to accept delivery. Seven manufacturers were able to complete the survey form and return it in time for publication.

The survey format was changed from that which had been used in previously published reports. Information was sought from each manufacturer on their company profile, central system equipment, continuously signalling equipment, programmed contact equipment, purchase and lease prices, and other optional equipment. The form was designed to provide information which could be presented in table format and also allow the company to provide narrative information.

The information reported here is taken from the manufacturer's responses. Information specific to each company is presented, followed by a comparison of equipment types. The disparity in length of information about specific vendors reflects the amount of information submitted in their responses and should not

be interpreted as an endorsement, or lack thereof, by the *Journal* of any particular company. Regrettably, some vendors were not able to complete the survey in time for publication. No significance should be attached to their absence from this report.

COMPANY PROFILES

BI Incorporated

BI Incorporated entered the electronic monitoring market in 1985. In addition to their corporate headquarters located in Boulder, Colorado, the company has regional offices in Indianapolis, Indiana, Phoenix, Arizona and Anderson, Indiana. The chief executive officer is Mr. David J. Hunter, President and CEO. BI Incorporated is a publicly held company which is traded on the NASDAQ exchange under the symbol "BIAC". As of June 30, 1990, there were 4,228,000 shares of common stock outstanding.

The company has over 10,000 units installed. Programs exist at 170 sites. To date there are no installations in foreign countries. The company has assets valued at \$24,500,000 with a long-term debt of \$541,000. They hold ten patents and have two others pending in the United States. Eleven patents have been

Table 1
Company Profile

	BI Incorporated	Corrections Services, Inc.	Cost Effective Monitoring Company	EP Systems	Innovative Security Systems	Mitsubishi Electronics America	Vorec Corporation
Corporate Status: Privately Held Publicly Held-Exchange Sold On: Stock Symbol Common Shares/Equivalents Issued Wholly Owned Subsidiary Of:	NASDAQ BLAC 4,228,000	OTC CRSI 5,176,900	(Private)	(Private)	(Private)	Mitsubishi Electric Company	(Private)
Year Entered EM Market	1985	1984	1987	1990	1988	1987	1987
Market Share: Number of Units Installed Number of States Operating In Number of Jurisdictions/Programs Foreign Countries System Installed In	10,000 N/R 170 N/R	5,000+ 17 168 3	24 2 3 0	N/R 10 16 N/R	N/R N/R N/R N/R	2,700 23 62 0	2,000+ 8 65 1
Number of US Patents Issued	10	0	1	N/R	N/R	2	1
Number of US Patents Pending	2	3	0	N/R	N/R	0	1
Number of Foreign Patents Issued	11	0	0	N/R	N/R	2	0
Number of Foreign Patents Pending	5	3	0	N/R	N/R	0	0
EM Sales For Calendar/Fiscal Year 1990	N/R	1,725,000	12,000	N/R	N/R	1,500,000	N/R
Assets Valued At	24,500,000	1,350,000	N/R	N/R	N/R	N/R	N/R
Long-term Debt	541,000	None	None	N/R	N/R	N/R	N/R
Type of Equipment Produced:	Continuously Signalling; Programmed Contact-Voice; Hybrid System; Drive-by	Continuously Signalling; Drive-by	Drive-by	Continuously Signalling; Hybrid System; Drive-by	Continuously Signalling; Drive-by	Programmed Contact-Visual Telephone; Hybrid System; Drive-by	Continuously Signalling; Programmed Contact-Voice; Hybrid System; Drive-by
Provide Contract Monitoring Services	Yes	No	No	Yes	No	No	Yes

Notes: N/R indicates information not reported by the company. Complete and/or additional financial information would normally be available to agencies requesting as a part of the competitive bid process.

issued by foreign countries and they have five others pending.

BI Incorporated offers a continuously signalling system which consists of a host computer, field monitoring device and a transmitter worn by the offender. The host computer employs a multi-user, multi-task format which allows computer program tasks to be dedicated to incoming calls, out-going calls, remote diagnostics, report processing, printing functions, etc. The multi-tasking feature allows the operating system to process tasks concurrently rather than serially. The multi-processor design permits the tasks of a computer to be divided into two basic functions: processing instructions and accessing data; increasing the overall processing speed.

The field monitoring device is installed in the offender's residence by plugging the power cord into a 120 volt outlet and connecting the telephone wire. The device places a call to the host computer which sets the unit's clock. The computer will call the device back within five minutes to perform location verification. The key is removed from the unit and the system is then operational.

The transmitting device is attached by sliding a strap into the transmitter case and wrapping the strap around the client's ankle. A

one-way locking fastener is attached and the strap is adjusted. The tamper circuit is then activated. The transmitter has multiple electronic indicators, as well as physical indicators to detect equipment tampering. As soon as the field monitoring device receives a tamper code from the transmitter, it will dial the host computer and a notification will be printed.

A programmed contact system utilizing voice verification which requires no in-home equipment is also provided by the company. The system uses a voice comparison technique to verify the identity of the client. The client's identity is verified via phone by comparing a voice template stored in the computer with the voice of the caller. The computer maintains general client data, previous arrest history, special notes, client financial requirements and curfew schedules. The computer's software, "Call Manager" and "Call Schedules", work in unison to develop a random calling schedule for the client. In the event of a violation, the client's "name response" is recorded for evidence and can be played back. Violations are entered into the database for immediate printing, daily summaries, notifying the officer in charge by digital pager and providing data for custom reports.

The hybrid system combines

the voice system with the continuously signalling system to verify alarms received from the continuously signalling system. When an alarm is received, the voice verification system contacts the client and notifies the officer in charge by digital pager. The pager will list the client case number and violation codes registered by each system.

The company's "Drive-BI" monitoring unit is designed to be hand carried or used in the officer's car. The receiver picks up a signal from the transmitter worn by the offender and will identify if the transmitter has been tampered with by the offender.

They have recently added a new dimension to their "BI Home Escort Series 6000". Now available is an option which enables the host computer to communicate with the field monitoring device through cellular networks. A cellular communications unit and field monitoring device are installed in the client's home. The only difference in operation between the cellular system and the continuously signalling system is that communication between the field monitoring device and the host computer occur over cellular airwaves and not telephone lines. The cellular feature is totally compatible with all series 6000 equipment. The cellular communications unit measures 11 3/4" x 17 1/8" x 6" and weighs twenty-seven

Table 2
Central System Equipment

	BI Incorporated	Corrections Services, Inc.	EP Systems	Innovative Security Systems	Mitsubishi Electronics America	Vorec Corporation
Computer Features:						
Standard Brand/Model Provided	NCR-32 Series	NCR 386	Various	IBM	Mitsubishi MP386	IBM PS/2 30
Operating Memory	4-32 MB	1 MB	N/R	N/R	1 MB	1 MB
Internal Memory	126-170 MB	40 MB	N/R	N/R	345MB	100+ MB
Client Capacity	400	300+	Variable	15-2000+	260/300	200-250
Memory Back-up Capabilities:						
Second Hard Disk	X		X			X
Tape	X		X	X		
Floppy Disk	X	X	X	X		
Other					CD ROM	
Polling of HMRU for System Checks:						
Call placed by HMRU	X	X	X		X	
Call placed by Central Computer	X			X	X	X
Default Number of Checks Per Day	N/R	2	None	None	4	1
Freq. of System Checks Programmable	Yes	Yes	Yes	Yes	Yes	Yes
Programmable Range for System Checks	N/R	11 minutes to 99 hours	0-100	1-48	1-23	N/R
Messages Reported As They Occur:						
All Activities	X	X		X	X	
Violations/Tampers/Equipment Failures		See Notes	X	See Notes	See Notes	X
Computer Operator Has Access at Any Time to HMRU For Stored Messages	N/R	No	Yes	Yes	No	Yes
HMRU/Computer Communication:						
Proprietary Hardware		X	X		X	X
Standard Modem	X			X		X
Computer Handle Messages from More Than One Unit At a Time	Yes	Yes	Yes	Yes	Yes	No
Required Number of Dedicated Phone Lines:						
Incoming	1 per 50 units	2	1		1-4	1
Outgoing	1 per 200 units	1	1	See Notes	1-4	1
Networking Capability:						
In-House at Central Site	No	Yes	Yes	Yes	Yes	Yes
Remote Terminals	Yes	Yes	Yes	No	No	Yes
Number of Terminals	2	N/R	Unlimited	N/R	See Notes	Unlimited
Laptop Computers	Yes	Yes	Yes	No	No	Yes
Back-up Power Supply	4 Hrs (Battery)	1 Hr (Battery)	1 Wk (Battery and Generator)	30 Min (Battery)	15 Min (Battery)	30 Min (Battery)

Notes: N/R indicates information not reported by the company. CSI's message reporting level is programmable by system operator as to which incidents are reported as they occur. ISS message reporting capability is programmable to report selected activities as they occur by client. ISS requires a total of 3 dedicated phone lines; 1 incoming, 1 outgoing, and 1 test line. Mitsubishi's client capacity is 200 for programmed contact, 300 for hybrid system. Calls placed for system check in the Mitsubishi system are placed by the HMRU for the continuous signalling equipment and by the central computer for the programmed contact equipment. Level of reporting for Mitsubishi is programmable as to type of activities reported as they occur. Mitsubishi has the capability to use any touch-tone telephone as a terminal.

pounds. It is a dedicated unit and cannot be used for personal phone calls.

Corrections Services, Inc.

Corrections Services, Inc., was founded in 1984 to market Contrac equipment. The first user was installed in November 1984 at the Palm Beach County Sheriff's Stockade, followed by Pride, Incorporated in December of that year. The primary emphasis for use of the technology at that time was for supervision of DUI offenders. In 1985 the company trademarked "In-House Arrest". After six months of experimenting with Contrac equipment they embarked on an R&D design effort to produce equipment. First released in December 1985, ninety percent of this equipment remains in use today.

The corporate headquarters is located in Ft. Lauderdale, Florida. The chief executive officer is Mr. Robert B. Yeakl, President. Corrections Services, Inc., is a publicly held company which is traded Over-The-Counter under the symbol "CRSI" (Bulletin Board). The initial public stock offering was released on March 12, 1986 which generated \$1,700,000 in capital. Proceeds were used to market the company's equipment. There are currently 5,176,900 common shares of stock outstanding. The company was incorporated in the

State of Florida.

The company severed its relationship with their existing manufacturer, Digital Office Systems International during January 1988. Negotiations were begun with Marconi Electronic Devices, Ltd. and a five year manufacturing agreement was concluded on June 21, 1988. A new generation of equipment (Hawk I) was marketed in August 1988. The fourth generation of equipment (Hawk II) was released in August 1990. On April 28, 1990 the company acquired its former manufacturer, Digital Office Systems International. The primary emphasis for the corporation has been equipment sales and intensive program design and support.

Corrections Services, Inc., has over five thousand units installed in seventeen states. Programs are operated by 168 jurisdictions and exist in three foreign countries; The United Kingdom, Singapore and Italy. For the fiscal/calendar year ending 1990 they had \$1,725,000 in electronic monitoring sales. The company has assets valued at \$1,350,000 and no long-term debt. They currently have three United States and three foreign patents pending.

The company markets a continuously signalling system which uses NCR equipment for its central system. NCR provides

a guaranteed four hour response time to handle hardware failures. The home monitor/receiver unit (HMRU) is programmed either by the host computer or a laptop computer via a direct cable connection. The HMRU is programmed with the called phone number, unit identification, routine call interval, transmitter delay and up to four transmitter codes. Once programmed, it is connected to the residential telephone and electric services and the key switch is activated.

The transmitter is attached to the client and can be worn on the ankle, wrist, or around the neck. The tamper resistant strap utilizes a capacitively coupled signal through the strap. It is secured with a proprietary high-security plastic rivet set. The transmitter is ultrasonically welded to make it waterproof to eighty feet and has an ergonomic design for comfort of the wearer. It uses surface mount microelectronic technology with surface acoustic wave stabilization.

A drive-by system is available which utilizes the same transmitter as the continuously signalling system. The system capacity is unlimited.

A paging option allows the system operator to designate units to be paged for selected transactions; left home, transmitter tamper, etc. A four digit pager is required which allows for dis-

Table 3
Software Capabilities

	BI	CSI	EP	ISS	MEA	VOREC
Number of Programmable Curfew Absence Periods Per- Offender Per-Day	6	4	56	3	4	3
Password Protection Number of Levels	Yes N/R	Option 3	Yes N/R	Yes N/R	Option 3	Yes 3
Data Elements Stored For Each Client:						
Demographic Data on Client	X	X	X	X	X	X
Client Schedules	X	X	X	X	X	X
Medical Information		X	X	X	X	
Court Restrictions		X		X	X	
Officer Contacts		X		X	X	X
Fines, Costs, Fees Paid/Owed by Client		X		X	X	
Other	X		X	X	X	
Printed Reports Which Can Be Generated:						
Violation	X	X	X	X	X	
Tamper Alert	X	X	X	X	X	
Equipment Failure		X	X	X	X	
Daily Summary	X	X	X	X	X	X
Monthly Summary		X	X	X	X	X
Summary By Client		X	X	X	X	X
Summary By Officer		X	X	X	X	X
Other			X	X	X	X
Capable of Performing Statistical Analysis	N/R	Yes	Yes	No	Yes	Yes

Notes: N/R indicates information not reported by the company. CSI reported statistical analysis function accomplished through custom design of reports. EP reports statistical analysis function as ability to produce virtually any summary with data retained in the system. ISS will have a data based system for statistical analysis available in the Fall of 1991. Mitsubishi's statistical analysis capability will produce client data by day, week, month, quarter and biannually.

play of the unit identification and transaction code. Planned upgrades during the third quarter of 1991 will allow the pager to also show the offender's name and telephone number.

Cost Effective Monitoring Company

Cost Effective Monitoring Company was founded in 1985 and began to adapt systems used in monitoring falcons and other wildlife. It entered the electronic monitoring market in 1987 with the first drive-by system developed for use in corrections. The company has recently begun manufacturing small receivers designed to be mounted over doorways to generate calls to

physicians or other monitoring personnel through a pager system to notify them when someone has left a room. They anticipate potential applications in the medical field for individuals who suffer from alzheimers patients, psychiatric wards and in juvenile detention facilities.

The corporate headquarters is located in Urbana, Illinois. The chief executive officer is Dr. Walter W. McMahon, President. Although the company is privately held, there are plans to seek either a private or public offering of stock.

The company has twenty-four units installed in two states.

Programs are being operated by three jurisdictions. To date there are no installations in foreign countries. For the fiscal/calendar year ending 1990 they had \$12,000 in electronic monitoring sales. The company has no long-term debt. They hold United States Patent Number 4,7356,196 on their drive-by system. They were incorporated in the State of Illinois.

The drive-by system consists of a transmitter worn by the offender and a receiver carried in the officer's car. A signal is emitted approximately every five seconds from the transmitter which is picked-up by the portable receiver. The company re-

ports the transmitter-receiver could be complementary to any of the existing telephone-dependent systems to monitor offenders who do not have a telephone or allow flexibility in monitoring by checking their presence at school, office or other locations.

The basic system consists of twelve transmitters, one automobile roof-top antenna, a portable directional antenna, a re-set box, headphones and service contract. Systems with twenty-four, thirty-six or forty-eight transmitters are also available.

EP Systems Corporation

EP Systems was founded in 1989 and entered the electronic monitoring market in 1990. It was incorporated in the State of Delaware as a privately held company. The chief executive officer is Mr. George Polk, President. In addition to its corporate headquarters in New York City, it maintains a regional office in Rolling Meadows, Illinois. The company has programs being operated by sixteen jurisdictions which are located in ten different states.

The company offers continuous signalling with an integrated programmed contact component. The continuous signalling system consists of a mainframe computer operated from their monitoring headquarters with the

option of additional computer systems as necessary, a home monitor/receiver unit (HMRU) and a transmitter worn by the offender.

The central computer station is a fully redundant mainframe computer with a back-up computer on-line at all times. The computer operates proprietary offender monitoring software. Officers can call the central station twenty-four hours a day for information on offenders, to authorize schedule exceptions or to generate a programmed contact test through the hybrid system. Reports are customized to an agency's needs and virtually any summary can be generated as long as the data is stored in the system.

The HMRU is installed in the offender's home by the company under a contract arrangement. During installation the receiver automatically conducts tests of power, phone, physical tamper sensors, back-up battery power and range. No equipment or special wiring is necessary for installation. The HMRU automatically goes through a range test during installation to verify proper operation. The system's microprocessor-based receiver eliminates the problem of "dead spots" in a residence. Thirty-six types of messages will be generated by the HMRU which include both technical and movement alarms.

The HMRU's tamper resistant features include tamper resistant screws which will set off an alarm if unscrewed and electronic tamper sensors to defeat attempts by other computers to access the HMRU. All communications are encrypted to defeat any attempt by "hackers". All sensors will automatically re-set after a tamper alarm is transmitted.

The transmitter is designed to be worn on the wrist but can be placed on the ankle if desired. It is secured with a custom designed cloth strap and rivets. Any break in the band will cause a tamper alarm to be generated. The tamper alarm can be re-set from the field, but normally will require replacement of the band.

The programmed contact function of the system utilizes an electronic handshake protocol. The component is built into the HMRU.

EP Systems also has available a drive-by system which utilizes the transmitter worn by the offender for the continuous signalling system. A portable receiver is used in the officer's car which is powered by an internal battery which can be recharged or operate off of the vehicle's battery with the use of an adaptor. It is designed to work off a portable antenna but antennas which are fixed on the unit or use a magnetic roof mount are

available. The system will note the client's presence and report if the transmitter has been tampered with.

A paging function is available for use with the system which is compatible with existing commercial pagers.

Innovative Security Systems

Innovative Security Systems was founded in 1986 and entered the electronic monitoring market in 1988. It was incorporated in California as a privately held company. The chief executive officer is Mr. John B. Coogler, President. Its corporate offices are located in Cupertino, California.

The company offers a continuous signalling system consisting of a host computer, home monitor/receiver unit (HMRU) and transmitter worn by the offender. The host computer is an IBM with a client capacity ranging from 15 to 2000+ offenders. It requires a minimum of three dedicated telephone lines; one incoming, one outgoing, and one test line. A data base system will be available in the Fall of 1991 to facilitate statistical analysis functions.

The telecommunication system verifies all data transmitted in both directions. It checks the communication links each time a call is made and reports any tam-

pering at the HMRU or contact failure at the central computer. The HMRU knows when the computer is to call and will seize the line; thus, any contact failure can be checked immediately. The central computer can interrogate and/or change parameters for over twenty HMRU functions for each client. Included in this control flexibility is the ability to place the HMRU in a sleep mode where it stores information for a fixed time or to do a "warm-start" (re-boot) of the HMRU.

The HMRU is installed by connecting the AC power and telephone lines. Using the "ISS Activator", the programming cord is inserted into the HMRU which then programs the RF code selected and initiates a boundary setting mode. Once the boundary limits have been set and the device is removed the HMRU automatically performs the remaining installation actions including a self-check on the equipment and calling the central processing unit to verify operation. The company's new RF technology with dual receivers and high speed digital processing capability ensure RF reception anywhere within the defined boundaries which were set during installation.

The HMRU has a tamper-resistant feature which guards against opening the unit or disconnecting the batteries. The software re-sets automatically

once the tamper alert is downloaded to the central computer.

The transmitter is designed to be worn on the ankle, however, the company notes it can be worn around the waist if "within reasonable limits". A tamper feature operates through the strap which must be re-set in the field. Each signal reception from the transmitter is processed by a DSP chip to give the strongest signal strength from the two receivers. The information is time stamped, stored and compared to the set boundary limits. Whenever changes occur, the data is transmitted to the central computer. Over four thousand signal receptions with the corresponding signal levels can be stored in the HMRU until transmitted to the computer. The signal strength from the transmitter approximates how close or far away the client is from the HMRU.

A drive-by system is offered which utilizes the same transmitter worn by the offender for the continuous signalling system. A receiver is placed in the officer's car which is powered by a 12 volt DC battery. Information from the receiver can be downloaded to a central computer. The receiver is equipped with a portable antenna with other options available. Information received includes the client's presence, transmitter tamper and low battery.

An optional pager function is

Table 4 - Home Monitor/Receiver Unit (HMRU)

	BI Incorporated	Corrections Services, Inc.	EP Systems	Innovative Security Systems	Mitsubishi Electronics America	Vorec Corporation
Size (Height/Length/Depth in Inches)	2.5x14x9	1.75x13.75x5.75	8x7x4	5x13x2	1.75x13.75x5.75	6x12x14
Weight (Pounds)	4.5	5	5	8	5	23
Repeater Available to Address Dead Spots	Yes	No	No	No	No	No
Telephone Line Compatibility:						
Rotary	X	X	X	X	X	X
Touch-tone	X	X	X	X	X	X
Pulse	X		X	X	X	X
Telephone Connectors:						
Standard	X	X	X	X	X	
Adaptors Required						X
Telephone Equipment Which Interferes With Normal Operation:						
Call Forwarding	X			X	X	
Cordless Phones	X					
Call Waiting	X					
Memory Re-dial Capability	Yes	Yes	Yes	Yes	Yes	Yes
HMRU Will Dial Back-up Phone Number	No	No	Yes	Yes	No	Yes
Line Seizure Capability	No	Yes	No	Yes	Yes	No
HMRU Programmable By Agency:	No	Yes	Yes	Yes	Yes	Yes
By Direct Cable Connection		X		X	X	
By Telephone			X	X		X
Transmitter Violation Delay:						
Length	No	Yes Variable	Yes Variable	Yes 3-15 Minutes	Yes Variable	Yes 6.5 Minutes
Reports Transmitted:						
Client Out	X	X	X	X	X	X
Client In	X	X	X	X	X	X
HMRU On	X	X	X	X	X	
HMRU Tampered With	X	X	X	X	X	X
HMRU Power Failure	X	X	X	X	X	X
HMRU Relocation	X	X	X	X	X	
Transmitter Tampered With	X	X	X	X	X	X
Transmitter Power Failure	X	X	X	X	X	
Tamper Resistant Feature:	Yes	Yes	Yes	Yes	Yes	Yes
Requires Re-set From Field	N/R	Yes	No	No	No	No
Power Supply:						
Required volts	120	110	110	110	90-120	110
Number of Outlets Required	1	1	1	One 2 plug	1	1
Internal Back-up Power Supply	Yes	Yes	Yes	Yes	Yes	Yes
Length of Operation	12 Hrs	24 Hrs	72 Hrs	8+ Hrs	24 Hours	24 Hours
Data Storage Capability If Power Lost:	Yes	Yes	Yes	Yes	Yes	Yes
Number of Messages Stored	22	235	1500	250+	235	7 Days Worth
HMRU Programmable to Recognize Different Transmitters	No	Yes	Yes	Yes	Yes	Yes

Notes: N/R indicates information not reported by the company. Information presented for Mitsubishi is for the continuous signalling equipment. The HMRU for the programmed contact equipment is described in the narrative description of the company.

BI Incorporated	Corrections Services, Inc.	EP Systems	Innovative Security Systems	Mitsubishi Electronics America	Vorec Corporation
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Table 4 - Home Monitor/Receiver Unit (HMRU)

Table 5
Transmitter Unit

	BI Incorporated	Corrections Services, Inc.	Cost Effective Monitoring Company	EP Systems	Innovative Security Systems	Mitsubishi Electronics America	Vorec Corporation
Size (Height/Length/Depth in Inches)	.75x2x2.5	1.25x2.875x2.5	.5x1.5x1	1.25x.5x.167	1.25x2.75x2.75	1.25x2.875x2.5	3x2x1.25
Weight	6 oz.	5 oz.	6 oz.	1 oz.	6 oz.	5 oz.	4 oz.
Open Field Range	150 ft	230 ft	1,500 ft	150 ft	500+ ft	230 ft	1,000 ft
Range is Programmable	N/R	No	No	No	Yes	No	N/R
Operating Frequency Range	303.875 MHZ	N/R	N/R	N/R	300 MHZ	318 MHZ	900 MHZ
Number of Identification Codes Available	N/R	942	12-24	250+	2,000+	942	1,256+
Battery:							
Shelf Life	5 Years	5 Years	N/R	5 Years	8 Months	5 Years	10 Years
Operating Life	1 Year	4-6 Months	4 Months	9 Months	4 Months	4-6 Months	2.5 Years
Field Replaceable	Yes	No	Yes	No	Yes	No	No
On/Off Capability	No	Yes	Yes	Yes	Yes	Yes	Yes
Capability to Detect Low Battery Power	Yes	Yes	No	Yes	Yes	Yes	No
Type of Strap/Fastener Used	N/R	Proprietary, Hypo-allergenic, Non-flammable vinyl	N/R	Custom designed cloth strap with rivets	Custom ISS strap attached with hand tool	Proprietary, Hypo-allergenic, Non-flammable vinyl	Nylon
Transmitter Worn On:							
Ankle	X	X	X	X	X	X	X
Wrist		X	X	X			
Neck		X			X		
Waist							
Tamper Resistant Feature:	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Requires Reset From Field	N/R	Yes	Yes	Yes	Yes	Yes	Yes
Design of Tamper Feature	Multiple electronic indicators and physical indicators	Capacitively coupled signal through strap	Detects if disconnected	Detects breaks in the band	N/R	Capacitively coupled signal through strap	N/R

Notes: N/R indicates information not reported by the company.

available which will display the client's name, identification, telephone number and message. The system will allow selective notification by client for violation messages.

Mitsubishi Electronics America

Mitsubishi Electric Corporation of Japan was formed as a division from the Mitsubishi trading group in 1936. Mitsubishi trading had its beginnings in 1863. Mitsubishi Electric Corporation, (MELCO), became a separate organization after World War Two in 1946. Its prime business has been in the design and manufacture of electrical power systems, appliances, consumer electronics, telephone products and systems, broadcast equipment and electro-mechanical products such as motors and elevators. It is a sixty billion dollar a year company being a world-wide leader in communications, appliance and video industries.

Mitsubishi Electronics America, Inc., headquartered in Cypress California, began in the early 1950's selling electrical products in the United States. today it has sales of over 2.2 billion dollars per year. Its major US markets are consumer video, computer and electronic components.

The still image video phones were developed by Mitsubishi to

offer to the consumer market a low cost method of using existing phone lines to transmit video from one phone to another. In 1985 the first video phone, "LUMAPHONE", was offered to the business community and found acceptance in law enforcement to transmit "mug-shots" from one department to another for verification. This concept expanded to form the "MEMS", Mitsubishi Electronic Monitoring System. This system is comprised of major components derived from the Mitsubishi computer and video market areas. It is integrated in the United States R&D center in Nevada City, California

The company, incorporated in the State of Delaware, is a wholly owned subsidiary of Mitsubishi Electric Company. In addition to the corporate offices located in Cypress, California, they have regional offices located in Sunnyvale, California, Mt. Prospect, Illinois, Norcross, Georgia, and Somerset, New Jersey. The chief executive officer is Mr. Tachi Kiuci, Chairman, Mitsubishi Electronics America. The company entered the electronic monitoring market in 1987.

The company has 2,700 units installed. Programs exist in twenty-three states, being operated by sixty-two different jurisdictions. To date there are no installations in foreign countries.

For the fiscal/calendar year ending 1990 they had \$1,500,000 in electronic monitoring sales. The company holds two US patents and two foreign patents on its products.

Mitsubishi offers a programmed contact system utilizing a visual telephone. The equipment placed in the home is comprised of a video picture phone that is self-installed much the same as an answering machine. The base station calls the home station by phone and requests a specific pose for the client to send and then a voice response. The picture and voice response are processed, reported and stored digitally. A hard copy can be made of the picture from a specific call. All video images include the time, date and name as well as the pose for each occurrence. The equipment will operate with rotary, touch-tone or pulse telephone lines and requires only a standard connector. Call forwarding equipment will interfere with normal equipment operation. The unit does not have memory redial capability or a line seizure function. The unit will not dial a back-up telephone number.

The hybrid system combines the visual telephone and a continuously signalling RF system. When a violation is noted the computer calls the home station and requests a picture verifying that the offender is there. The

continuous signalling equipment is installed by first downloading the receiver/monitor at the base station with client data and verifying the transmitter link. At the client's home, the officer checks for dead spots with a null meter and verifies the adequacy of power and telephone lines with "checkers". Once the power and phone lines have been connected, the unit is activated and calls the base station to verify the connection.

Offenders under home detention with alcohol related problems are accommodated by using a remote breath alcohol tester. This tester is attached to the video phone with the LED of the tester facing the video camera to show the BAT value. Offenders are requested to exhale into the tester and send a picture of themselves and the BAT value via the video phone. The result is an image permanently stored in the computer that has their picture, BAT value, time, date, and offender's name. A video copy can be generated via the base workstation video copier in order to have a visible record for file information.

The company has developed a drive-by system which will be available for delivery beginning September 1, 1991.

Vorec Corporation

Vorec Corporation was

founded in 1987 to develop and market electronic monitoring equipment. It was incorporated in the State of New York as a privately held company. The chief executive officers are Mr. David Manes, CEO, and Mr. Paul A. Sloan, President. In addition to its corporate headquarters in Tarrytown, New York, the company maintains regional offices in San Antonio, Texas and Sacramento, California.

The company has over two thousand units installed in eight states. Programs are operated by sixty-five jurisdictions, with one in the country of Israel. Vorec Corporation has one patent issued and one pending in the United States.

The company markets both continuously signalling and programmed contact systems which are designed to operate independently or can be combined into a hybrid system which is controlled by the central station.

The central station equipment consists of an IBM PS/2 30 computer with over one hundred megabytes of internal memory storage. The system offers an archive file for statistical analysis which contains information on the case number, last name, first initial, social security number, case opened, case closed, date of birth, race, sex, successful completion, reason for unsuccessful terminations and offense com-

mitted.

The home monitor/receiver unit (HMRU) is installed by plugging into the electric and phone outlets. The unit is then initialized by the central station. Voice enrollment procedures are completed with the client and the unit checks system status. The HMRU has a tamper resistant feature with is automatically reset after notification is made. A portable laptop computer can be used in the field by officers to retrieve information from the HMRU. This application is useful if the offender does not have a telephone.

A cellular option is available if requested. A black box with back-up power supply is installed in the client's home. The HMRU plugs directly into the cellular system and no programming is required.

The transmitter is designed to be worn on the offender's ankle. It is attached with a nylon strap which requires no special tools to install. The tamper resistant feature must be re-set by authorized personnel with the client being present. Both the transmitters and HMRUs are field programmable with individual codes.

The programmed contact function is accomplished through voice verification. Unlike other systems, the voice template is stored in the HMRU and not the

central computer. Verification is thus performed on-site rather than over telephone lines.

Vorec's drive-by option is designed to work with transmitters used in the continuous signalling system. A portable receiver is placed in the officer's car which can be powered by a 12 volt DC battery prior to its being charged in the charging unit. It will receive signals from the transmitter indicating the client's presence and can monitor up to 1,256 offenders/transmitters.

A pager option requiring a seven digit pager is available. The unit will display the case number and a three digit violation code.

SYSTEM COMPARISONS

Based on the information provided by the companies responding to the survey the charts shown in this report offer a basis for comparison. In some cases direct comparisons are not possible either because information was not provided in the survey or because products and/or terminology are substantially different.

Company Profiles

Two of the corporations, BI Incorporated and Corrections Services, Inc. (CSI), are publicly held. Mitsubishi Electronics America is a wholly owned sub-

siary of Mitsubishi Electric Company. The remaining companies, Cost Effective Monitoring Company (CEM), EP Systems, Innovative Security Systems (ISS) and Vorec Corporation are privately held.

CSI has been in the electronic monitoring market for the longest period, beginning in 1984, followed by BI in 1985. The newest entry into the field is EP Systems.

The largest market share is held by BI with over ten thousand units installed in one hundred-seventy jurisdictions. Although they have approximately half the number of units installed, CSI has almost the same number of jurisdictions using its products as does BI. Mitsubishi has systems operating in more states than any other company. The smallest market share is held by CEM with twenty-four units being installed in two states.

There are four foreign countries which use the company's products. CSI has installations in The United Kingdom, Singapore and Italy. Vorec has an installation in Israel.

There are fourteen United States patents issued and six more pending. Foreign countries have granted an additional fourteen patents with eight pending. BI holds a majority of the patents, both issued and pending.

Only three companies reported sales figures for the calendar/fiscal year ending in 1990. CSI posted sales of \$1,725,000, followed next by Mitsubishi's sales of \$1,500,000. CEM reported sales in the amount of \$12,000. Two companies provided information on the value of corporate assets; BI at \$24,500,000 and CSI at \$1,350,000. BI has a long-term debt of \$541,000 while CSI reports no long-term debt. Financial information is routinely withheld by privately held companies but would normally be available to agencies requesting it as a part of the competitive bid process. Similarly, most responding to the survey declined to provide pricing information as a matter of company policy. The industry is based on competitive bidding and the price structure for any specific contract will vary according to a number of factors.

The companies continue to expand their product lines as evidenced by the types of systems offered and options which are available. The industry appears to be moving toward systems which incorporate both continuous signalling and programmed contact elements. Three of the seven companies (BI, EP and Vorec) provide contract monitoring services.

Table 6
Drive-by Unit

	BI Incorporated	Corrections Services, Inc.	Cost Effective Monitoring Company	EP Systems	Innovative Security Systems	Mitsubishi Electronics America	Vorec Corporation
Receiver:							
Size (Height/Length/Depth in Inches)	2.75x6.5x9	7x3.5x2	4.5x8.5x4	8x7x4	5x13x12	2x10x5	8x6x4
Weight	4 lbs.	14 oz.	2-3 lbs.	5 lbs.	10 lbs.	3 lbs.	3.75 lbs.
Open Field Range	150 feet	200+ feet	1,500 feet	150+ feet	500 feet	N/R	1,000 feet
Range is Programmable	No	No	No	No	No	No	No
Designed to be Used:							
In Officer's Vehicle	X	X	X	X	X	X	X
Portable	X			X			X
Uses Same Transmitter as Continuously Signalling System?	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Operating Frequency Range	303.875 MHZ	N/R	N/R	N/R	300 MHZ	318 MHZ	900 MHZ
Information Received:							
Client's Presence	X	X	X	X	X	X	X
Transmitter Tamper	X	X	X	X	X	X	
Transmitter Power Failure		X			X		
Low Battery Power					X	X	
Date and Time						X	
Antenna Options:							
Portable	X			X	X		
Fixed on Unit		X		X		X	X
Magnetic Roof Mount	X	X	X	X		X	
Portable Direction Antenna			X				
Power Source	120 Volt AC Adaptor	Vehicle's power supply	Rechargeable battery or plug into car battery	Internal battery and car battery adaptor	12 Volt DC	12 Volt DC and enclosed battery	12 Volt DC, 48 hours before charge
Unit Recharges in Vehicle:	Yes	Yes	No	Yes	N/R	N/R	No
Re-charger Supplied	Yes	N/R	Yes	Yes	Yes	N/R	Yes
Information Can Be Down-loaded to Central Computer	Yes Serial Port RS232	No	No	No	Yes	Yes	No
System Capacity	Unlimited	Unlimited	N/R	Unlimited	Unlimited	15 Cycleable	1,256

Notes: N/R indicates information not reported by the company. ISS noted they have other antenna options available. The Mitsubishi system will be available for delivery September 1, 1991.

Central System Equipment

The client capacity of the systems generally ranges from a low of two hundred to a high of over two thousand. All of the systems have a memory back-up capability. The only company currently offering a CD ROM system for that purpose is Mitsubishi. The remaining use a second hard disk, tape or floppy disk. Three of the companies provide agencies a choice between methods.

All of the system have the capability to program the frequency of system checks. Proprietary hardware is used by three companies for HMRU/central computer communication while two companies use a standard modem. Vorec reports using both communication protocols.

All but Vorec report the computer can handle messages from more than one unit at a time. In the Vorec system, the HMRU will attempt to contact the computer "several" times if unable to transmit the message. If conflicts occur in the remaining systems the information is stored in the HMRU which will continue to attempt reporting.

Four systems (BI, CSI, EP and Vorec) are able to utilize remote and laptop computer terminals. Functions will vary according to the system. The most restrictive is that of BI which al-

lows only monitoring of violations. The remote and laptop computers offered by EP Systems can perform all functions, however, the company does not recommend this for security reasons.

Software Capability

Each of the systems includes a password protection program or have it as an option. The standard number of levels was reported as three. Several companies offer data elements in addition to those shown in Table 3 which can be stored in the computer. BI can include the case number and alternate client identification (such as client social security number, employer, marital status, level of supervision, jurisdiction, start/stop date and reason for termination). EP Systems can custom design the data base to include information on the judge, prosecutor, defense attorney and other desired information. Mitsubishi includes start and stop dates, type of monitoring, language spoken, reference video picture, serial number of video phone and the responsible client manager. ISS reported they have additional data storage capability without listing the elements available.

HMRU

The issue of "dead spots" in residences is addressed in several ways by the companies, however, they all report the problem is virtually nonexistent. BI can supply

a repeater to rely signals from the transmitter to the HMRU, but they find it is required in less than one percent of the client's homes. CSI reports their equipment is designed to self-check for the problem. Equipment used by EP Systems will automatically go through a range test during installation. They believe their micro-processor based receiver system eliminates the problem. ISS reports their RF technology with dual receivers and high speed digital processing capability ensures reception anywhere in the designated boundaries established during installation. Mitsubishi provides a null detector and annunciator which gives audible and visual identification of the RF link. Vorec reports no dead spots have been encountered using their 900 MHZ system.

In all but BI's equipment, the HMRU is programmable by the agency. This is accomplished either through a direct cable connection or through telephone communications. All systems incorporated a tamper resistant feature.

Transmitter Unit

The open field range of transmitters varies from 150 to 1,500 feet. Only ISS reported having the capability to program the transmitter's range. Of those who supplied the information, only Vorec's equipment operates

in the 900 MHZ range, the remaining systems use the 300 MHZ range. Battery operating life ranges between 4 months and 2.5 years. Six companies have an on/off capability for the battery. Three systems use batteries which are field replaceable. Five of the seven units will detect low battery power.

All of the companies report having a tamper resistant feature on the transmitter. Of those providing the information, all of the tamperers must be re-set in the field. Corrections Services, Inc. and Mitsubishi utilize capacitively coupled signals through the transmitter strap. Cost Effective Monitoring and EP Systems detect if the band is broken or disconnected. BI Incorporated uses a system which combines multiple electronic and physical indicators to detect tampering.

Drive-by Units

All seven companies offer a drive-by unit which utilizes the same transmitter as their continuously signalling system. While all of the systems are designed to be used in the officer's car, three of the companies report the unit as also being portable. The weight of the receivers ranges from fourteen ounces to ten pounds.

Antenna options were listed as being portable, fixed on unit, or as having a magnetic roof

mount. The system manufactured by Cost Effective Monitoring provides a directional antenna.

All of the units will report the presence of the offender. All but the Vorec Unit will report attempts to tamper with the transmitter. Equipment manufactured by CSI and ISS will report power failures in the transmitter. ISS and Mitsubishi's systems will report low battery power. The Mitsubishi system will also document the date and time of the check.

Three of the systems (BI, ISS and Mitsubishi) are capable of downloading information from the unit to the central computer.

Other Options:

Use of pagers has been integrated by six companies. (CEM has a pager function tied to its medical applications which is not reported here). The amount of information will vary with each system, although a trend toward including more information appears to be developing. BI requires a twenty-two digit pager which will display the type of violation, transmitter unit number and offender's home phone number. CSI requires a four digit pager which displays the unit identification number and transaction code. Planned upgrades will allow display of the offender's name and phone num-

ber. EP Systems will support any existing commercial pager. ISS can selectively page by client. The display will show the client's name, identification number and message. Mitsubishi's computer is programmed to call automatically on violation reports. The agency can set the computer to call an officer's pager. Vorec requires a seven digit pager which will display the case number and a three digit violation code.

Remote alcohol testing is offered by Mitsubishi. The system is integrated into their programmed contact system which produces a photograph of the offender and the test results.

Cellular communications are offered by three companies. BI features an option which enables the host computer and HMRU to communicate through cellular networks. Mitsubishi makes the technology available upon request of an agency using a standard Mitsubishi cellular phone without handset. Vorec can include a black box option which is plugged into by the HMRU.

END NOTE:

The editor would like to thank those vendors who were able to participate in the survey and apologize to those who found the time constraints prohibitive.

Index To Current Manufacturers

BI Incorporated
6400 Lookout Road
Boulder, CO 80311
(800) 666-2911 (Out-state)
(303) 530-2911 (In-state)
(303) 530-5349 (Fax)
Attention: Richard Willmarth, V.P.
Product(s): Continuous signalling; Programmed contact-voice; Programmed contact-drive-by; Hybrid-RF & voice; Contract monitoring services.

Chubb Electronics, Ltd.
297 Kingston Road
Leatherhead
Surrey KT22 7LS, UK
(0372) 378023
(0372) 386401 (Fax)
Attention: Lewis Weidman
Product(s): Continuous signalling; Contract monitoring services.

Corrections Services, Inc.
3050 E. Commercial Blvd.
Fort Lauderdale, FL 33308
(800) 282-9444 (Out-state)
(800) 247-3715 (In-state)
(305) 776-0911 (Fax)
Attention: Frank R. Bauer, V.P.
Product(s): Continuous signalling.

Cost Effective Monitoring System
2207 Grange Circle
Champaign, IL 61801
(217) 333-4579 (Days)
(217) 367-3990 (Evenings)
Attention: Walter McMahon, President
Product(s) Programmed contact-drive by.

EP Systems
131 Greene Street
New York, NY 10012
(800) 359-6554
(212) 529-5115
Attention: George Polk, President
Product(s): Hybrid-RF & handshake protocol; Contract monitoring services.

Guardian Technologies, Inc.
5200 Fields Ertel Road
Cincinnati, OH 45249
(800) 457-0001
(513) 247-5600
(513) 530-0802 (Fax)
Attention: Gary Shlatter, Mktg. V.P.
Product(s): Continuous signalling; Programmed contact-voice; Contract monitoring services; Ignition interlock systems; Portable breath testers.

Hitek Community Control Corp.
4021 N.E. 5th Terrace
Fort Lauderdale, FL 33334
(800) 323-9476
(305) 564-0521
(305) 564-1599 (Fax)
Attention: Edgar Reynolds
Product(s): Programmed contact-wrist device; Hybrid-RF & wrist device.

Innovative Security Systems
19855 Stevens Creek Blvd., Suite 180
Cupertino, CA 95014
(408) 446-5899
Attention: John B. Coogler, President
Product(s): Continuous signalling; Programmed contact.

Marconi Electronic Devices, Ltd.
100 Smith Street
Farmingdale, New York 11735
(516) 293-8686
Attention: Peter Klopsis
Product(s): Continuous signalling; Programmed contact

Mitsubishi Electric Sales of America
Visual Telecom Division
1070 East Arques Avenue
Sunnyvale, CA 94086
(800) 422-5862
(408) 522-7433
(408) 746-2033 (Fax)
Attention: Jerry Silvia, Ntl. Marketing Mgr.
Product(s) Continuous signalling; Programmed contact-videophone & remote alcohol testing.

The Voice System
4555 Corporate Drive, Suite 302
Troy, MI 49890
(313) 641-8600
Attention: Randy Rouse
Product(s): Programmed contact-voice

Total Control Monitoring
3939 Beltline Road #500
Dallas, TX 75244
(214) 247-4676
(214) 241-7654 (Fax)
Attention: Randy Ziesenis, V.P.
(405) 348-1465
Product(s): Tracking system.

Traktek, Inc.
3464 W. Earll, Suite A
Phoenix, AZ 85017
(602) 269-7266
(602) 269-8415 (Fax)
Attention: Everett Bell, Exec. V. P.
Product(s): Continuous signalling; Programmed contact-
drive-by; Contract monitoring services.

Vericon Systems, Inc.
505 Hartford Building
400 North St. Paul Street
Dallas, TX 75201
(214) 880-0850
(214) 880-0180 (Fax)
Attention: Richard D. Hawn, Jr., V.P.
Product(s): Programmed contact-voice.

VOREC, Inc.
155 White Plains Road
Tarrytown, NY 10591
(914) 631-8213
(914) 631-8508 (Fax)
Attention: David Manes, C.E.O.
Product(s): Hybrid-RF & voice.

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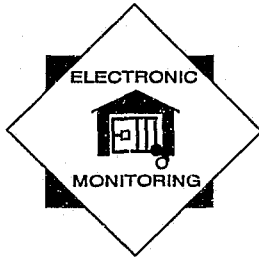
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APPENDIX 6:

**COST EFFECTIVENESS AND USE OF
HOUSE ARREST WITH ELECTRONIC
MONITORING
IN PIMA COUNTY, ARIZONA**

ARTICLE

JOURNAL OF OFFENDER MONITORING
SPRING, 1992

Cost Effectiveness and Use of House Arrest with Electronic Monitoring in Pima County, Arizona

By Theodore M. Forgach*

The following article is a summary of a much longer research project completed by the author who conducted a statistical analysis of the cost effectiveness of the house arrest electronic monitoring program of the Pima County, Arizona Adult Probation Department.

EXISTING PROGRAM

The Community Punishment Program (CPP) was created by the Arizona Legislature in 1988 to improve probation services statewide and help reduce overcrowding in jails and prisons. It was funded for fiscal year 1989-90 by diverting \$2.6 million from the Arizona Department of Corrections' budget. Funding levels for fiscal year 1990-91 were similar, but were not included in the governor's budget proposal for 1991-92.

Electronic monitoring is used in three levels of supervision: Intensive Probation Supervision (IPS); the Drug Involvement Reversal through Education, Control and Treatment (DIRECT) program; and as an adjunct to regular probation. IPS offenders have been convicted of a felony for which the granting of probation is not prohibited by law or have violated probation by

commission of a technical violation which is not chargeable or indictable as a criminal offense. They must be sentenced to the program by the Superior Court and may not be administratively transferred to IPS by the probation department. A return to regular probation must also be approved by the court. The program includes increased probation supervision, house arrest and surveillance. Emphasis is placed on required community service and payment of all court ordered fines, fees or other assessments.

The DIRECT program is a regular specialized caseload of probationers with drug and alcohol abuse problems. The program is six months long and offers an intermediate level of probation supervision with a special emphasis on drug and alcohol treatment. It is considered a house arrest program like IPS and may be used in conjunction with electronic monitoring. Offenders must have met at least one of several criteria: have a prior petition to revoke probation; have a current petition to revoke; denial of current charge whether technical or criminal; and use or abuse of any drug.

Regular probation is the minimum level of probation

supervision offered. There are no eligibility criteria. If offenders are statutorily eligible for probation, the court may sentence them to regular probation in accordance with an accepted plea agreement or judicial discretion.

ORGANIZATION AND STAFFING

The probation department started its house arrest program in March of 1990 with seven probationers on electronic monitoring equipment. The department has dispatchers to monitor and screen incoming electronic messages and violation reports generated by the equipment.

The EM response team consists of one senior deputy adult probation officer and one deputy adult surveillance officer. The senior deputy adult probation officer is in charge of the response team has responsibility for the team's activities, reports, statistics and EM files. The surveillance officer shares in the responsibility of connecting and disconnecting probationers to and from equipment, servicing equipment and investigating electronic monitoring violations.

Although the supervising probation officer continues to be the case supervisor, the response

team shares the duty to investigate, arrest and incarcerate electronic monitoring violators in the absence of or at the direction of the supervising probation officer. One member of the response team remains on-call 24 hours a day, seven days a week. Response team members alternate weeks for call-out and share a county funded vehicle equipped with a two-way radio and car phone.

The response team is not paid for overtime and must accomplish all tasks, including call-outs within a 40 hour work week. Team members decide how and when to flex their schedules. The response team was organized on November 18, 1990 with the addition of county funding as part of a jail overcrowding reduction effort. The number of active EM cases had grown to twenty-nine by this time and a response team was needed to perform services on a 24 hour day, seven day a week basis.

VIOLATION PROCEDURES

Dispatch screens approximately 90 percent of the incoming electronic monitoring problems over the telephone by calling the supervising probation officer to clarify a scheduling problem or violation. Most curfew violations are caused by supervising probation officers who fail to turn in weekly schedules in advance or fail to inform

dispatch of special schedule changes.

The department has a four step violation verification procedure for dispatchers to follow every time an electronic monitoring alarm is received. First, a voice verification test is automatically sent to the probationer by the voice verification system. This test will determine if the probationer is at home. It documents the date, time and results of the voice verification test for later use in probation violation hearings.

The second step would be for the dispatcher to call and speak directly with the probationer to document his or her reasons for the violation. The telephone call is used in attempt to resolve problems at the dispatch level. Failing that, the third step would be to call the supervising probation officer, if available, to report the violation and attempt to clarify any questions about the probationer's schedule.

If the alarm has not been resolved, the fourth step, contacting the on-duty or on-call response team member, would be initiated. The response team will try to resolve the problem by telephone or field response. Once contacted by dispatch, resolution of the EM violation becomes the responsibility of the response team.

Probationers are subject to arrest for curfew violations after thirty minutes. Confirmed tamper violations are mandatory arrests. Probationers who lose telephone service or power to their residence for more than 24 hours are subject to arrest if they do not have an alternative temporary residence available with a working telephone. Probationers are not required to pay a fee for electronic monitoring, but may be charged with a new criminal offense when they intentionally damage, destroy or abscond with the equipment.

There were twelve absconders out of 170 cases and four were rearrested prior to March 31, 1991. There were approximately eight instances in which police reports for criminal damage or theft of equipment were filed by the response team in an attempt to collect restitution on behalf of the vendor who insures the electronic monitoring equipment. To date, none of the new charges for theft or criminal damage to the equipment have resulted in convictions or the payment of restitution. This may be due to a general lack of interest in such new charges by the Pima County Attorney's Office.

RESEARCH DESIGN

The present study is a cohort study which examines all 170 electronic monitoring placements by the probation depart-

ment between March 1, 1990 and May 31, 1991. Data were collected from the original probation department files and records of all participants. It is a limited statistical analysis of the success/failure rates and cost effectiveness of the program.

Success was defined as completion of all EM days ordered by the court. Failure was defined as occurring when the probationer was revoked to jail or prison for commission of technical violations or new crimes while in the program. Failure also included being removed from the program by the court for technical violations but not being revoked to jail or prison. The court might remove probation violators from regular or DIRECT supervision and place them on IPS without the EM program with or without additional jail time.

In this study data were examined using two different analytical approaches; an analysis of the success/failure variables and an analysis of cost effectiveness. The first approach involved creating a profile of successful and unsuccessful EM probationers using their Risk/Needs scores and the department's IPS matrix. The risk/needs assessment instrument used was developed by the Maricopa County Adult Probation Department in the early 1980's based on the NIC Model Probation Project. All variables were examined to determine their

impact on success and failure in the program.

The second approach involved a cost effective analysis of the program. Assumptions were made about the parameters and definition of "net-widening." The upper limit of "net-widening" was established at 32.4 percent based on the total percentage of persons who were not in custody at the time the court placed them in the program. At the time of placement, 115 participants (67.6 percent) were in custody and are assumed not to represent any "net-widening" in the system. Fifty-five probationers (32.4 percent) were not in custody at the time of placement and are assumed to represent the worst case scenario of "net-widening." Costs were examined at the different levels of supervision because it was believed that "net-widening" would effect the costs of EM differently at each level.

PREDICTING SUCCESS

On the average, participants in all three levels of probation supervision (regular, DIRECT and IPS) were "high risk" as indicated by their risk score, prior felony convictions and prior petitions to revoke in-custody status at the time of court-ordered placement. Data indicate EM probationers are high risk and high need because they scored higher on the Risk/Needs Assessment Scale and are jail or prison

bound. This suggests that placement in the program is a reduction of state control if probationers are taken out of jail and placed in the program.

The majority of EM placements were convicted of less serious non-violent offenses. In many cases, probation officers had filed petitions to modify conditions of probation to place offenders on electronic monitoring rather than filing petitions to revoke probation and place them in custody. Many of the offenders (41.2 percent) were classified as a Class Six or open-ended felony. Under this scheme, an open-ended felony is treated as the least serious (Class Six) felony until the probationer successfully completes probation and the offense is then designated as a misdemeanor. Judges appeared to want to leave the offense undesignated (open-ended) as long as possible during the period of probation to encourage offenders to choose to remain in the community and on probation rather than to serve their time in prison. Many probationers prefer to go to prison because they have accumulated credit for time served and are eligible for general parole upon completion of half their sentence.

Based solely on the Risk/Needs Assessment instrument, offenders under regular supervision scored in the "medium" range for both risk and needs.

Those on IPS scored "high" on risk and "medium" on needs, while the DIRECT program participants scored "high" on both risk and needs. Based on the risk score, the data indicate that those in the DIRECT program are as dangerous as IPS probationers. They are believed to be the most unstable because of their higher needs scores.

The correlation between IPS matrix scores, risk scores, needs scores and successful completion of the program were examined. There is a strong relationship ($r = .881$) between the IPS matrix and risk scores of the participants. Such a relationship indicates that they both measure the same things (multi-collinearity). Use of either measure would have roughly the same predictive value. Use of both measures in combination may be redundant and in actuality might not improve prediction of success or failure.

None of the correlations between success and the IPS matrix scores ($r = -.184$), success and risk scores ($r = -.173$), or success and needs scores ($r = -.205$) are strong. Many of the individual items from the Risk/Needs Assessment Scale initially believed to be associated with successful completion of the program were also shown to not be significant when subjected to statistical analysis. This indicates the assessment scales may not be the appropriate instrument for pre-

dicting success on electronic monitoring.

Of the 170 probationers assigned to the program, 124 successfully completed it while 46 failed to do so. There was no statistical difference ($p = .3903$) in the success or failure rates between the three levels of supervision (regular, DIRECT, IPS). This is interesting because there was a significant statistical difference in the IPS Matrix and some of the Risk/Needs Assessment scores between the levels of supervision. The difference in scores between these groups is, however, not unexpected. The scores directly effect, or at the very least are reflective of the level of supervision assigned due to the nature of the rating scales employed. This finding is further indication that the assessment instruments may be inappropriate for predicting program success.

Of the 128 variables examined, a majority showed no statistical difference between those who succeeded and those who failed. The variables which were significant in their relationship to failure predictably included those charged with EM violations, administrative violations of probation or new criminal charges. Probationers with prior prison sentences and time on parole were less likely to succeed. Also related to predictions of program failure were the number of prior juvenile adjudi-

cations and adult felony convictions, present offense designation, percent of time employed in the past twelve months and drug use in the past five years. Variables related to success were companions, academic and vocational skills, employment and the probation officer's perception of needs.

The above notwithstanding, based on general trends observed in the data, it is possible to construct a profile of those who successfully completed the program. The successful participant is most likely a single white male, twenty-one years of age with a high school diploma or GED. They have an average of 103.8 total days in custody prior to starting the program (includes presentence, jail as a condition of probation and probation violation jail days served in a case prior to program placement). They will typically have been convicted of property-related felonies.

This composite represents the "average" offender who successfully completed the program. The reader is cautioned these characteristics are not necessarily predictive. For example, while the average probationer spent time in jail, being incarcerated at the time of placement was not statistically significant in terms of predicting program success.

COST EFFECTIVENESS

Cost effectiveness of the program is best shown by the average cost per case, per supervision level. In doing so, it is possible to contrast the differences in cost between the three different levels of supervision. Estimates of the costs are first presented assuming zero "net-widening" has occurred. To show the effect of "net-widening" on program costs, figures were also calculated for the worst case scenario of 32.4 percent "net-widening."

In arriving at the figures, department generated per diem costs for the three levels of supervision and incarceration were used. The department's computation of incarceration costs include an average cost of \$47.15 per day for jail or prison and the department's per diem cost for supervision. EM costs per day include an average monitoring cost of \$12.10 per day and the department's per diem cost for supervision. It was estimated that regular probation with electronic monitoring costs \$14.08 per day, DIRECT costs \$20.10 per day and IPS costs \$24.42 per day. This is compared with the estimated incarceration costs of \$49.13 for regular probation supervision, \$55.15 for DIRECT supervision and \$59.47 for IPS supervision. The estimated daily cost savings is a constant \$35.05 per person.

Under the worst case "net-widening" scenario, costs of EM would be increased by 32.4 percent while incarceration costs would remain the same. This would increase the average daily cost of EM to \$18.64 for regular supervision, \$26.61 for DIRECT supervision and \$32.33 for IPS supervision. The estimated daily cost savings range from \$27.14 to \$30.49 per person depending on the supervision level.

Based on the total savings of all three supervision levels, the estimated cost savings over the fifteen month period of this study is \$408,122.20. This figure assumes zero "net-widening" occurred in the program. Under the worst case scenario of 32.4 percent "net-widening," the total savings from all three levels of supervision drops to \$333,805.56.

If we use the department's official per diem figures for EM, we would arrive at an average per day cost of \$19.53 for electronically monitored supervision. Other data collected in this study indicate this figure may be low. Expenditures for the electronic monitoring program from March 1, 1990 through May 31, 1991 were \$250,976 with a total of 11,644 EM days being served by probationers. Using these figures, the average daily cost ($250,976 \div 11,644$) would be \$21.55.

CONCLUSION

"Net-widening" is occurring as a result of the existence of the program according to the relative measure used in this study to estimate program cost and effectiveness. Although discriminant analysis or other methods would produce different results, the limits of the study resulted in an estimation of "net-widening" within a range of zero to 32.4 percent. Even at the highest rate of "net-widening," the program still remains within cost effective limits.

Data indicate the program does not pose an unacceptable increase in risk to the general public. None of the felons in the house arrest electronic monitoring program are known to have injured anyone while in the program. Data indicate that 44 out of 170 probationers (25.8 percent) were arrested while in the program. Sixteen out of the 170 (9.4 percent) were known to have committed a new crime while in the program or while they were at large as an absconder. Twelve participants (7 percent) absconded while in the program and four of those were re-arrested during the period of this study.

More than half of the sixteen probationers who committed a new crime while in the program were counted because they damaged, destroyed or did not return

[CONTINUED ON PAGE 19]

the transmitter or home receiver unit. Formal charges were not filed in most of these cases. Five of the sixteen were revoked to prison for committing new crimes and two were revoked for technical violations.

Given the limited scope of this study, the electronically monitored house arrest program appears to be cost effective as compared to being in jail or prison and on probation. Data indicate the average cost of electronic monitoring was \$21.55 at zero percent "net-widening" and would be \$28.53 at 32.4 percent "net-widening." House arrest with electronic monitoring would still "break even" with the average costs of incarceration plus probation supervision at approximately 61.9 percent "net-widening."

Determining cost effectiveness and levels of "net-widening" are very difficult. Cost effectiveness would have been better determined by an in-depth cost benefit analysis and the level of "net-widening" by a discriminant analysis.

ENDNOTE

*Theodore M. Forgach is employed by the Pima County Arizona Adult Probation Department. The research was completed as part of his Masters Thesis.



Product and Trade News

COMGUARD Enters Vendor Market With New Product

COMGUARD Corporation has recently introduced a new product to the home incarceration field. The electronics and design are based on the recent miniaturization advances in cellular and portable radio communications. According to the company, the product with its wristwatch-sized transmitter incorporates advanced features not provided by any competing system. It incorporates both a continuous signalling RF and a programmed contact infrared positive identification system. Weighing less than one ounce, the COMGUARD transmitter can be worn comfortably on the wrist.

The company is privately held with twenty-one employees. Their corporate headquarters and monitoring facilities are located in Kankakee, Illinois. Since 1988, COMGUARD's founding principals have provided the electronic detention monitoring services, equipment and installation for Cook County through their participation with Home Incarceration Program of Illinois, Inc., for the over 22,000

prisoners assigned to the program. During the program's three years of operation, the average number of daily incarcerated has been 650. COMGUARD's principals made a strategic decision in late 1990 not to pursue the Cook County contract with other manufacturer's RF systems. Instead, COMGUARD was organized and formed in early 1991 to research, develop and manufacture its own line of electronic monitoring equipment.

The transmitter is about the size of a normal wristwatch, weighing less than one ounce. Despite its diminutive size, the unit contains a sophisticated RF transmission system and an infrared programmed contact positive identification system. The COMGUARD transmitter is the only unit which can positively identify the wearer.

Because of the unit's continuous signalling and programmed contact capabilities, agencies can establish different monitoring requirements for individual participants. These requirements can range from continuous signalling RF to fully programmed

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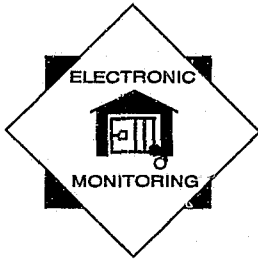
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[LEGAL ISSUES CONTINUED:]

abuse of discretion. The record does not reflect that the court failed to consider defendant's potential for rehabilitation. To the contrary, the record reflects that the trial court carefully considered what sentence to impose and fashioned a sentence to balance the seriousness of the offense with the objective of restoring the offender to useful citizenship, as required by our constitution. (Ill. Const. 1970, art. I, sec. 11.) We do not agree that the sentence imposed upon defendant is unduly severe.

In summary, we vacate that portion of defendant's sentence which required him to make cash restitution to the individuals injured in the accident. We affirm the remainder of defendant's sentence.

For the foregoing reasons the judgment of the circuit court of White County is affirmed in part and vacated in part.



APPENDIX 7:

**ELECTRONIC HOME ARREST AS AN
ALTERNATIVE
A NATIONAL OVERVIEW OF ISSUES AND APPLICATIONS**

CORPORATE PAPER

*BI INCORPORATED
NOVEMBER, 1993*

ELECTRONIC HOME ARREST AS AN ALTERNATIVE

A National Overview of Issues and Applications

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NIC INFORMATION CENTER**

FOREWORD

One can hardly open a newspaper anywhere in America today without noting at least one reference to the vast array of problems facing U.S. corrections officials. Crime and violence in our streets, serious overcrowding throughout the nation's prisons and jails, and the burdensome cost of maintaining our corrections system, are a sampling of the issues that have reached crisis proportions in the '90s. The American public, via tax dollars, continues to fund the ever-rising cost of corrections while government officials seek alternative solutions to the complex corrections puzzle.

In terms of alternatives to traditional incarceration of offenders, a broad range of sanctions exist today within the framework of community corrections, one of which is electronic home arrest. Since its inception ten years ago, the use of electronic home arrest has grown exponentially and is steadily gaining the endorsement of corrections officials and acceptance by the American public. In fact, electronic home arrest programs are currently used in over 1,200 jurisdictions throughout the country. The media's portrayal of electronic home arrest as an alternative has often been negative and biased. While much has been documented about a relatively small number of crimes that have been committed by offenders serving electronic home arrest sentences, virtually none of the thousands of successes in such programs have been the focus of media attention.

This paper has been written with a dual purpose in mind: to establish a baseline of accurate information on the history, technology, and use of electronic home arrest, and to link factual data concerning today's crisis in corrections with data that supports electronic home arrest as a viable alternative. Much has been written on this subject in newspapers, magazines and corrections publications. The author has attempted to review a significant portion of these documents and herein provides an overview of that information. As appropriate, I have referenced said publications and cited corrections officials and scholars in the field of electronic home arrest. I trust that the information presented in this paper will serve readers in their attempt to understand the concept of electronic home arrest and its potential as a cost-effective alternative to incarceration.

Joanna T. Manley
BI Incorporated
(303) 530-2911

PUBLIC SAFETY

Since electronic home arrest as a sanction relies mainly on the offender's willingness to comply with the program, the question then is: *Can previous offenders be trusted to refrain from further criminal incidents?* Research studies indicate that to date, less than one in four electronic home arrest participants have failed to complete their programs successfully.³⁷ Additionally, escape and recidivism rates for electronic home arrest participants are quite low as compared to the overall sanctioned population.

Used as a reintegration tool, electronic home arrest can facilitate the return of former offenders to the community without compromising public safety. Because the majority of today's prison and jail inmates will one day be released back into their respective communities, it follows that electronic home arrest as a sanction provides an added measure of public safety.

THREAT OF SYSTEMS FAILURE

Clearly the risk of equipment failure exists to a varying degree in electronic home arrest programs. There are a number of equipment manufacturers, some of whom provide equipment with fewer deficiencies than others. Some firms have better reputations for quality products and customer service than others.

Electronic monitoring equipment has improved through many iterations of product design since its first use in 1983. However, there is often a misconception about the function and capability of electronic home arrest monitoring systems: state-of-the-art technology in electronic home arrest today is *presence/absence monitoring*, NOT *tracking* of offenders.

In terms of *failure* of electronic home arrest systems, a clear distinction must be made between equipment failures which are technical in nature and the failure of offenders to comply with the sanctions of their electronic home arrest programs.

CURRENT USE OF ELECTRONIC HOME ARREST IN THE U.S.

According to the 1993 Electronic Monitoring Equipment Survey conducted by J. B. Vaughn of Central Missouri State University for the Journal of Offender Monitoring, there are 66,650 electronic home arrest units in the field.³⁸ A majority of these are used in 1,242 community corrections programs across the United States with a small percentage used in home arrest programs in Singapore, Canada, and Australia.

A one day census conducted February 12, 1989, revealed that 6,490 offenders were serving electronic home arrest sentences throughout the U.S. and the Commonwealth of Puerto Rico.³⁹

Early electronic home arrest program participants were primarily probationers. The 1,010 percent rise in electronic home arrestees between February 1989, and June 1993, indicates that this sanction is currently being used with a much broader range of offenders, including pretrial adjudicates.

CONCLUSION

If the foremost concern in community-based corrections is the protection of public safety, then an obvious goal of electronic home arrest is to positively impact the dilemma in U.S. corrections (prison/jail overcrowding and the extremely high cost of incarceration,) without having a negative impact on public safety. Electronic home arrest monitoring should be

viewed as a *program tool* within community-based corrections which is used to divert as many offenders as possible in a manner that does not compromise public safety in any way.

"Years ago, we had to convince people that electronic home arrest offered a viable alternative to incarceration for offenders who were deemed to be *safe risks* for such a community-based sanction. Today the questions involve what it would take to expand the use of electronic home arrest to large numbers of non-violent offenders who clog our nation's corrections systems, unnecessarily costing our citizenry thousands of dollars annually. The *day and night* economic benefits of electronic home arrest versus traditional incarceration would seem to make this a straightforward choice.

Why then, is electronic home arrest not more widely used in U.S. corrections today?

- After ten years of use in the U.S., electronic home arrest still represents a revolutionary approach to correcting deviant behavior.
- The selection of candidates for electronic home arrest must be very carefully done by judges who, heretofore, have not had access to reliable data relative to program success versus offender type.
- Despite the compelling economics of electronic home arrest, early program implementation represents incremental spending in budgets that are already severely strained.

Electronic home arrest monitoring is clearly not an option designed for all offenders nor is it a panacea for the ills of U.S. corrections today. I believe, however, that a well-managed electronic home arrest program which is competently conducted by trained

professionals can contribute significantly to the reduction of prison overcrowding."⁴⁰

Reviewing community-based sanctions in terms of a justice model, stresses criteria of proportionality and intrusiveness. In brief, this emphasizes that above all else punishment must fit the crime (proportionality), and that the dignity of the offender must not be degraded by the imposition of either humiliating conditions or invasions of privacy (intrusiveness) beyond those strictly necessary to the proportionate sanction.⁴¹

Electronic home arrest can be used as an effective tool in well designed and appropriately implemented community-based corrections programs as a sentencing solution for nonviolent offenders to heed the clarion call across America for *punishment that fits the crime*.

Rational decisions regarding the problems encountered in U.S. corrections today must be made in accordance with scarce financial resources in federal, state, and local jurisdictions. If a significant portion of corrections funds now targeted for prison and jail construction were diverted to community corrections programs instead, then alternatives such as electronic home arrest could play a vital role in reducing overcrowding and rehabilitating offenders as they return to the community. Reapportioning existing corrections dollars would enable community corrections programs to improve the overall efficiency and cost-effectiveness of the U.S. corrections systems.

APPENDIX "A"

CASE STUDIES - HOW ELECTRONIC MONITORING HAS BEEN USED TO DATE AND ITS RESULTS

Racine, Wisconsin - 1,150 inmates in the electronic bracelet program now with 2,200 inmates expected by July 1994. Only a handful have violated in an assaultive way.⁴²

The State of Kansas reports that it saved nearly \$1.5 million in operating and construction costs because it diverted 830 adults from prison through home arrest and electronic monitoring.⁴³

Virginia offenders serving their sentences on electronic home arrest earned nearly \$1.5 million between 1986 and 1989, allowing them to support their families and significantly reducing welfare spending in Virginia.⁴⁴

Minnesota reports that 521 offenders were diverted from prison in 1988 alone through the use of electronic home arrest.⁴⁵

Seven months into a new program, Wisconsin has let 756 felons serve their sentences in the community under close supervision with electronic home arrest, and only 29 have landed back in prison for new crimes or rule violations.⁴⁶

LOS ANGELES COUNTY - ELECTRONIC HOME ARREST USED AS PART OF AN ANTI-DRUG PROGRAM

The experience of Los Angeles County indicates that electronically monitored home arrest is cost-effective and reduces the likelihood of probation violations and recidivism.⁴⁷

A Los Angeles Evaluation

Covering three high crime areas of Los Angeles, the post-release records of 126 drug offenders sentenced in 1990-1991 to probation by home arrest with electronic monitoring were compared with the records of 200 drug offenders from the same areas sentenced to ordinary probation during the same period. Both groups were regarded by the courts as abusers of illegal drugs in that their sentences required them to be tested for drugs at random times at least twice a month. Most drug charges were for possession rather than sale and non-drug charges, if any, were usually theft, auto theft or burglary. The two groups had similar attributes:

- About 80% were males;
- About 40% were white, 35.6% Hispanic and 25% African-American, but each of these groups predominated in one of three neighborhoods where the research was conducted;
- The average age at sentencing was 30, but was about 21 at first recorded adult arrest;
- Prior arrests averaged about five and prior convictions about three.

Record on probation during the first six months of the sentences:

- 43% of the non-monitored and only 34% of the monitored had their probation revoked for serious rule violations.

- 45% of the monitored and only 28% of the non-monitored had no reports of rule violations.
- The two differences are both statistically significant in that they could occur by chance alone in less than one in a thousand comparison samples of this size.
- Major probation violations occurred much sooner after probation began for the non-monitored than for the monitored.

Most rule violations recorded for non-monitored probationers were "dirty" or missed drug tests, whereas, most of those by the monitored offenders were curfew violations - that is absences from home that could be known to officials only because of the electronic monitoring. Six percent of both the 126 monitored and the 200 non-monitored probationers were arrested for new offenses.

Nearly three-fourths of the monitored probationers who were interviewed reported more time spent at home with family during a typical week of the monitoring period than during typical pre-monitoring weeks, and less than half said that time at home declined after monitoring ended. There was an increase with monitoring in saving money, watching television, reading for pleasure, preparing and eating meals at home, performing household chores and repairs and especially in being alone. In the time spent away from home with friends, 80% reported a decrease during monitoring and only 51% reported a post-monitoring increase. Thus, monitoring fostered home life while it lasted, as well as afterwards.

The electronically monitored home arrest program encouraged work as a legitimate way of being away from home.⁴⁸

Sentencing Recommendations from the Los Angeles Study

Monitoring and drug testing of probationers are ways to reduce the demand for drugs, while fostering work habits and schedules incompatible with disabling drug use. Most drug abusers with poor employment records but not extremely serious offense histories are best sentenced to electronic monitoring with drug testing. Such sentences would not be primarily for deterrence, but to change personal habits that impair their employability. Drug abusers with little other criminality and fair to good job records are most cost-effectively deterred by fines, other monetary penalties, community service or a combination of these methods.

Continuous monitoring of compliance with a house arrest order can be provided electronically at a cost of \$3 to \$8 per day, depending upon the type of equipment used. It usually costs less if the government buys rather than rents the equipment. But the rapid rate of innovation and price reduction trends may make purchased equipment less costly in the long run as compared with renting.

Further government economies occur when courts require that employed probationers pay for their electronic monitoring. In contrast, it costs counties about \$40 a day for jailing or \$15 to \$25 a day per probationer for the small caseloads of intensive supervision.⁴⁹

FLORIDA PROGRAMS

Florida was one of the first states to retreat from the mandatory sentences that have worsened prison crowding and escalated prison costs across the nation. With prison costs rising, Florida ended many mandatory sentences on May 28, 1993, when the Florida state legislature approved the overhaul of sentencing guidelines.⁵⁰

According to a legislative report, by 1996, the number of those classified as habitual offenders was expected to grow to about 25,000 inmates or nearly 50% of the prison system's current capacity. Florida, the nation's fourth most populous state, now houses about 52,000 inmates in state prisons.⁵¹

Florida's home arrest program, known as "Community Control" was established in 1983 to help alleviate prison crowding in the state. It is the most ambitious program of its type in the country with about 5,000 offenders "locked up" in their homes on any one day.⁵²

Florida's program targets *incarceration bound* offenders including misdemeanants and felons. Each offender is supervised by a community control officer whose primary function is to ensure that the offender is adhering to court-ordered house arrest restrictions. For the more serious offenders, an electronic monitoring system is used. This system operates by having a central computer randomly telephone the offender during designated hours. The offender responds to the telephone call by placing a receiving module (contained in a watch-like wristband) into a modem. The computer verifies the action via a remote printer.⁵³

Offenders are permitted to leave their residences only for court-approved employment, rehabilitation, or community service activities. Participants must pay monthly supervision fees to offset the costs of supervision, pay restitution to victims and provide for their own and their family's support.⁵⁴

Officials in Florida consider the home arrest program to be a resounding success. Since 70% of those 10,000 persons were believed likely to have been sent to prison otherwise, real cost savings have been realized.⁵⁵

PRIDE, INC. - A THIRD PARTY ELECTRONIC MONITORING PROGRAM

In December 1984, Pride, Inc., of West Palm Beach, Florida set up the first continuously operating electronic monitoring program. For 20 years, Pride, Inc. has administered misdemeanor and criminal traffic and pretrial intervention for Palm Beach County as well as operating a DWI school and a substance abuse education program. Most of the offender population in the Pride, Inc. program were charged with DWI or Driving Under Suspension. Fewer than 2% were charged with violent crimes and most of the remainder fall into a general category of *disorderly conduct*.⁵⁶

One of the common requirements for the electronic home arrest option is employment, partly because it offers signals of stability and partly because it provides a justification for avoiding jail. In this program 93% of the offenders were employed; the remainder were disabled, working as housewives or searching for a job.⁵⁷

Program results showed that 97% of the offenders completed their electronically monitored home arrest period successfully and nearly 80% completed their entire term of probation. The electronic monitoring completion rate is especially impressive in view of the fact that the likelihood of probation violations is highest early in the probation period.⁵⁸

APPENDIX "B"

AN EVALUATION OF ELECTRONICALLY MONITORED HOME ARREST

One of the better studies on the use of electronic home arrest was completed by the *Illinois Task Force on Crime and Corrections*, which is summarized in the task force's *Final Report*, Anton R. Valukas, Chairman, State of Illinois, March 1993.

The Task Force conducted a one-year study to obtain as much information as possible concerning prison overcrowding and to identify and analyze plausible options for addressing both the causes and the consequences of crowding.⁵⁹

CAUSES OF OVERCROWDING

- Increase in both drug and violent crimes and in enforcement have contributed to the explosive growth in the prison population.
- The high recidivism rate is the second reason for prison overcrowding -- 46% find their way back into the prison system within three years.
- Longer sentences have also contributed to the growth of the inmate population.

CONSEQUENCES OF OVERCROWDING

- Overwhelming security problems throughout the prison system. Inmate attacks on other inmates and prison staff.
- Problems providing services and programs to inmates exacerbating serious health problems in the prisons.

- Could lead to court intervention in the control of the prison system.

RECOMMENDATIONS

- Reduce recidivism through education, industries and treatment - a reduction from 46% to 41% would save 488 prison beds and more than \$1.5 million per year after three years.
- Implement an earned time program that will allow inmates to earn days off their sentence by successfully participating in recidivism-reducing activities.
- Use electronic home arrest or boot camp - electronic home arrest has been demonstrated to have a positive effect on new releasee's re-entry into society. Recidivism rates actually drop when certain inmates are released from prison early, but spend that additional time in the community on electronic home arrest.
- Continuum of community-based sanctions.
- Increase profits from correctional industries.
- Cost savings concerning special needs inmates - work in partnership with nationally renowned Project for Older Prisoners to develop an objective risk assessment program that will lead to the parole or placement on electronic home arrest of appropriate older inmates.

In many jurisdictions, electronic home arrest is used to either monitor defendants awaiting trial or as a way of supervising some convicted offenders in the community or both. Since 1989, the Illinois Department of Corrections has used electronic home arrest to monitor the re-integration of certain inmates back into the community. The average time these inmates spend on electronic home arrest is five months, a critical time period for recidivism. Beyond having their presence/absence monitored, most inmates under electronic home arrest must also participate in various community-based programs, such as job-counseling, substance abuse testing and treatment, face-to-face contacts with parole agents and other programs.

Electronic home arrest used as a re-integration strategy has proven to be beneficial to the Department of Corrections, to the offenders and ultimately to the public. For the Department, the program frees up valuable bed spaces. For offenders, electronic home arrest means returning to the community at a more gradual pace and in a more structured setting. For the public, electronic home arrest of offenders provides significant public safety protection and is less expensive than prison or jail.

RECOMMENDED ELIGIBILITY FOR ELECTRONIC HOME ARREST

All offenders, except those convicted of:

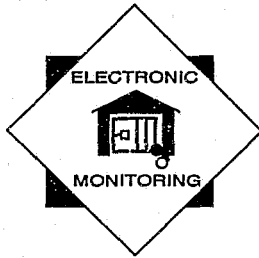
- First degree murder;
- Aggravated criminal sexual assault;
- Criminal sexual assault;
- Bringing contraband into, or possessing contraband in a penal institution;
- Aggravated battery with a firearm;

- Any "Super - X" drug offense;
- Calculated criminal drug conspiracy;
- Or an inchoate offense relating thereto (or any predecessor or successor offense with the same or substantially similar elements)solicitation, conspiracy, attempt would be eligible to serve up to the last 90 days of their sentence on electronic home arrest.

Use of electronic home arrest with class 2,3, and 4 offenders, coupled with physical spot checks and appropriate supervision strategies has proven effective at helping inmates re-establish family and community ties, at reducing recidivism and at freeing up needed bed space for high-risk offenders. Since July 1989, the Department of Corrections has placed more than 6,139 inmates on electronic home arrest to serve the last portion of their sentences. Of these inmates, fewer than 4% have been re-arrested while on the program.

Offenders placed on electronic home arrest also have a considerably lower two-year recidivism rate that offenders released from other correctional programs; 16% compared to 25 and 26%. Focusing just on reincarceration caused by new offenses, (as opposed to parole violations), the new offense rates for these inmates is 6.7%; half the rate for the other types of offenders.

Per capita cost of electronic home arrest is \$2,640, which represents a savings of 16% over the per capita marginal cost of \$3,143 for institutional incarceration.⁶⁰



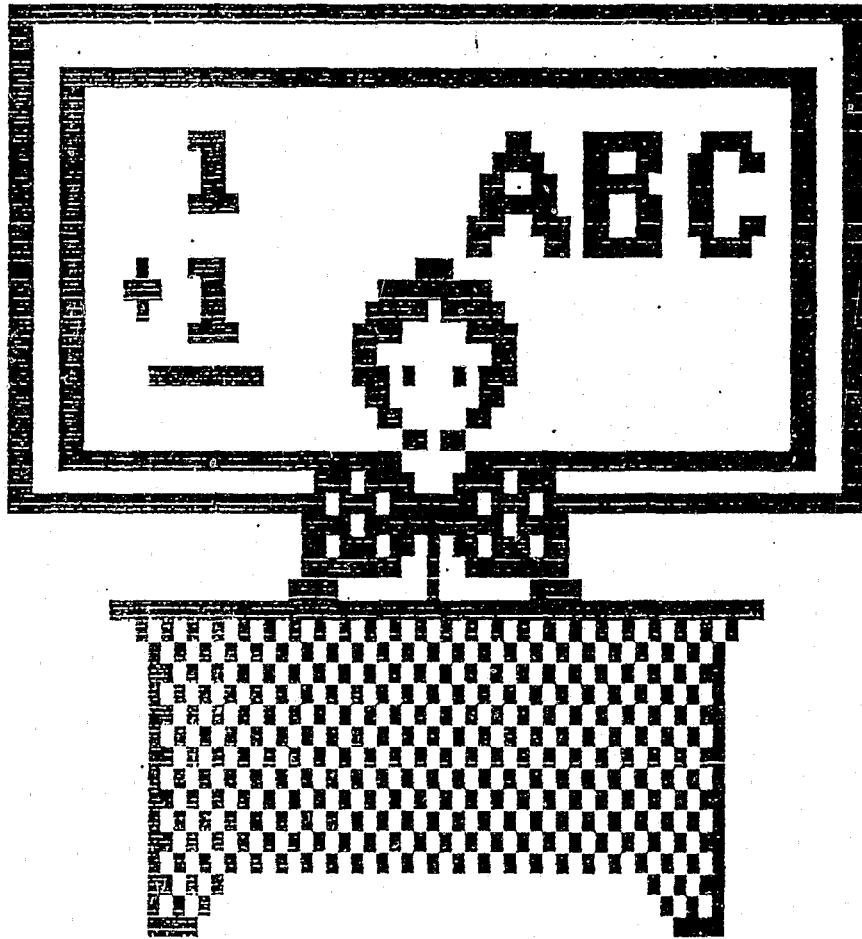
APPENDIX 8:

**ADULT PROBATION DEPARTMENT OF THE
SUPERIOR COURT IN PIMA COUNTY, ARIZONA**

ELECTRONIC MONITORING INFORMATION KIT

JANUARY, 1993

ADULT PROBATION ELECTRONIC MONITORING



INFORMATION KIT

JANUARY 1993

HOW TO REFER AND SCREEN CASES FOR ELECTRONICALLY MONITORED

HOUSE ARREST IN 1993

- 1. Determine if the probationer has a residence with electrical and basic telephone service. Extra telephone services such as: call waiting, three way calling, call forwarding, an answering service, cordless telephone, an answering machine and pay TV attachments interfere with the electronic data stream of the monitoring device and are not permitted while the probationer is on house arrest. Serviceable modular phone jacks and power outlets should be located along the same wall where the monitoring device is intended to be placed. Dangerous dogs and other restrictions like locked fences may make a referral inappropriate for electronic monitoring unless they can be managed so as to permit the response team safe and easy 24 hour access to the residence where the probationer lives.**
- 2. If these extra telephone services are present the referring officer should make arrangements with the probationer or his/her family to temporarily shut them off prior to the desired hook-up date.**
- 3. Obtain a court order for either maximum control or regular house arrest as outlined in Chief Stile's memorandum of November 12, 1992.**
- 4. Send the probationer information sheet and an initial weekly schedule to APO Dispatch for programming and hook-up at least ONE DAY in advance.**
- 5. Contact the on-duty EM response officer to coordinate the date and time of the hook up.**
- 6. The response team will need a copy of the Minute Entry ordering the electronic monitoring as soon as possible. The Minute Entry is used to confirm and program the correct stop date in the computer.**
- 7. Notify the response team or APO Dispatch of any unscheduled unhooks or arrests. The response team will coordinate all other planned unhooks with the supervising officer.**
- 8. Schedules should be completed by the PROBATION OFFICER (not the probationer). Probation officers should allow sufficient time for probationers to travel to and from authorized activities. All schedule changes should be faxed to APO Dispatch at least one day in advance.**

Additional tips for the proper completion of weekly schedules include the following:

- A. The information in the time blocks should be limited to times only. Additional information clutters the form and is extremely difficult to filter through to locate times. The location blocks down the left side of the form can be amended to change the title or include additional information.**
 - B. Currently the computer will only accept 7 days worth of schedule. It is not physically possible to enter any more. Once the schedule is entered to the computer it is filed in a reference book until a violation alarm is triggered. any additional days added to the schedule are only hidden from view and forgotten. Additional days should be submitted on an additional form.**
 - C. Ensuring that sufficient travel time is added to all times will preclude the occurrence of unnecessary alarms.**
 - D. Pencil entries DO NOT fax very well, if at all. Ink is preferred.**
 - E. Often times the schedule indicates that the probationer should only be home for 30 minutes to an hour. Our experience shows that more often than not the probationer is not home during this period, causing unnecessary alarms that the PO generally is not concerned about, yet dispatchers must follow up on anyway. Allowing the probationer out during that 30 minutes could prevent many unnecessary alarms.**
 - F. Attached is a sample schedule to demonstrate the difference these changes would make. Please call if you've any questions.
Thank You.**
- 9. Electronic monitoring information kits are intended for APO/PCJCC staff only and are available upon request.**

ADULT PROBATION DEPARTMENT OF THE SUPERIOR COURT IN PIMA COUNTY
 ELECTRONICALLY MONITORED HOUSE ARREST PROGRAM
 PROBATIONER SCHEDULE

01/25/93
 Date Submitted

Name SAMPLE JOE B.
 Last First Middle

CR # CR-12345 Supervising PO JOHN DOE

FILL IN DATE: (01/31) (02/01) (01/26) (01/27) (01/28) (01/29) (01/30)
 SUN MON TUE WED THUR FRI SAT

LOCATION

WORK	Leave: Return:		0630 1530	0630 1530	0630 1530	0630 1530	0630 1530	
TREATMENT	Leave: Return:			1800 2000		1800 2000		
SCHOOL	Leave: Return:	W						W
COMM.SVC.	Leave: Return:	W	1730 2100		1730 2100		1730 2100	W
APO VISIT	Leave: Return:	W	1530 1730					W
OTHER	Leave: Return:							

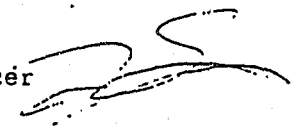
UPDATED INFORMATION

- Home Address: 123 W. INA #4 Phone: 123-4567
- Work Address: U-MOVE-IT 456 W. ORANGE GROVE Phone: 765-4321
- Treatment Address: N/A 6789 N. ORACLE Phone: _____
- School Address: _____ Phone: _____
- Comm.Svc.Address: SALVATION ARMY 1011 N. STONE Phone: 198-2673
- Other Address: _____ Phone: _____

Forward To Dispatch

MEMORANDUM

TO: All Staff

FROM: Don Stiles, Chief Probation Officer 

RE: Electronically Monitored House Arrest RE: REVISED PROGRAM REQUIREMENTS

DATE: November 12, 1992

Electronically Monitored House Arrest (EM) offers an effective sanction by enhancing supervision and surveillance of probationers who:

- * would otherwise be sentenced to jail or prison
- * were incarcerated in jail and released to EM

EM is designed to provide structure, control and treatment for selected probationers. This is a house arrest program. Therefore, EM is intended to be almost as restrictive as serving time in jail or prison, and is available in two types, in accordance with the order of the Court. For example, if the Court orders 90 days EM without specifying which type, then automatically house arrest (type II) will be used. If the Court orders type of house arrest at the discretion of the probation officer, then either maximum control house arrest (type I) and/or house arrest can be used as deemed appropriate.

I. In maximum control house arrest, the probationer must remain at home at all times except for emergencies (imminent danger to self, family or household residents), or if living alone, to purchase food/supplies once weekly within a 2 hour limit. Maximum control house arrest is suitable for probationers who would have been incarcerated in the main jail (maximum custody facility) and is generally recommended for a duration not to exceed 30 days.

II. In house arrest, which is similar to work furlough, the probationer must remain at home at all times except for the following scheduled and officer-approved activities and/or situations:

- * employment/documentable job search (w/plan approved by officer)
- * educational/vocational training
- * treatment
- * medical and health care
- * community service
- * scheduled visits to probation officer, Court and attorney
- * purchase of food/supplies (only if living alone; once/wk. w/2 hr. limit)
- * religious services (once/wk. w/2 hr. limit)
- * emergencies (imminent danger to self, family or household residents)

Outings or out-of-home activities other than previously described and approved are strictly prohibited.

The EM Response Team and supervising officers/teams make periodic field visits to confirm probationers comply with their schedules. EM probationers not at scheduled locations are subject to arrest. Probationers who damage, lose or steal EM equipment are subject to criminal prosecution and/or civil action.

Please direct questions/concerns about the program to Bob Levy or Ted Forgach.

MEMORANDUM

TO: All Officers/Specialists/Dispatchers

FROM: Robert N. Levy, Probation Program Coordinator

RE: Electronically Monitored House Arrest-PLEASE SEE ATTACHED CHIEF'S MEMO

DATE: November 12, 1992

During the last few months staffing and program requirements of Electronically Monitored House Arrest (EM) have been reviewed. Within the last month Intensive Probation Services (IPS) had several Senior Surveillance Officers attend training by BI, our equipment provider. Effective November 1, 1992, IPS Sr. SOs began covering call-out duties Tuesdays thru Saturdays from 5 p.m. to 11 p.m. The other time periods are covered by EM Response Team (with help from on-duty Sr. SOs, Sundays or Mondays from 5 p.m.- 11 p.m., as needed).

Please comply with following procedures when having probationers placed on EM:

1. Refer Superior Court cases to Intermediate Sanctions Referral Coordinator.
2. Ensure defendants have phone service without call waiting/forwarding, use of answering machine and/or cordless phone. Please inform defendants they are on house arrest and may be contacted by APO staff while on EM.
3. Placement priority is given to incarcerated defendants (either serving jail as a condition of probation or pending disposition/sentencing), according to Court orders and without unduly compromising public safety.
4. Please be prepared to offer the Court example EM uses, such as follows:
 - * 90 days EM (with 1st 30 days under maximum control house arrest)
 - * Split jail/EM sentence: 90 days EM consecutive to 10 days jail
 - * 30 days EM (maximum control type) in lieu of 30 day jail term
 - * Shorten existing 90 day jail term with remaining days on EM
 - * 60 days EM (type of house arrest at discretion of PO)
 - * 60 days EM at completion of Shock Incarceration or DUI prison
 - * 60 days EM at completion of residential drug treatment
 - * 90 days EM with 1st 30 days served immediately (either type of house arrest) and remaining days served at discretion of PO
5. At the hearing, ask the judge to state "But for EM house arrest (defendant) would have been sentenced to jail or prison", when ordering someone on EM.
6. Immediately after Court, contact EM staff to arrange installation of the equipment and fax Dispatch probationer's EM Information Sheet & Schedule. A minimum 24-hour notice is requested for after 5 p.m. installations. Please request Dispatch to flag high profile/potentially dangerous cases.
7. To verify the date EM will be disconnected, please contact EM staff.
8. Schedule adjustments must be made in a timely manner, ideally with a 24-hour notice. Please fax new schedule or adjustment(s) to Dispatch.

Please direct any EM questions/concerns you have to Bob Levy or Ted Forgach.

**Adult Probation Department of the Superior Court in Pima County
Electronically Monitored House Arrest Program**

Probationer Information Sheet

Unit No. _____

Last Name: _____ First: _____ MI: _____

Address : _____ Zip Code: _____

Telephone : _____ Spouse/Other: _____

Supervision Type: () IPS () DIRECT () REGULAR () OTHER: _____

DOB : _____ SS# _____ Sex: _____ Race: _____ Ht: _____ ' _____ Wt: _____

Hair: _____ Eyes: _____ Complexion: _____ Alias: _____

Physical Marks: _____

Veh Make: _____ Yr: _____ Model: _____ Color: _____ Plate#: _____

Veh Make: _____ Yr: _____ Model: _____ Color: _____ Plate#: _____

Dr Lic# : _____ State: _____ Status or Exp Date: _____

Employer: _____ Supervisor: _____ Tel: _____

Address : _____ Occupation: _____

No Alcohol: ()

CR#: _____ Offense: _____ Class: _____

CR#: _____ Offense: _____ Class: _____

Judge: _____ Division: _____

Orig Agency: _____ Case# : _____ Case# : _____

EM DAYS ORDERED: _____ EM START DATE: _____

**Sketch of Residence
(Response Team Will Complete)**



Front

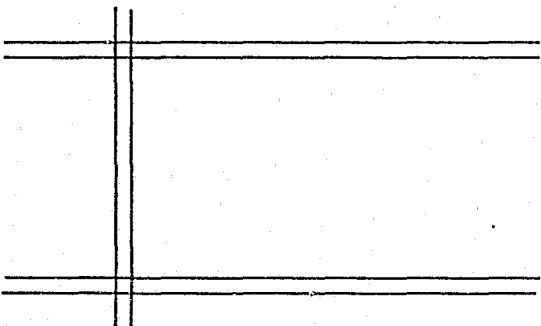
Officer Safety Notes

Probationer

**Residence Location
(Response Team Will Complete)**



N



Photo

(Response Team Will Supply Photo)

PO: _____
SO: _____
PSS: _____

**ADULT PROBATION DEPARTMENT OF THE SUPERIOR COURT IN PIMA COUNTY
ELECTRONICALLY MONITORED HOUSE ARREST PROGRAM
PROBATIONER SCHEDULE**

Date Submitted _____

Name _____
Last First Middle

CR # _____ Supervising PO _____

FILL IN DATE: () () () () () () ()
SUN MON TUE WED THUR FRI SAT

LOCATION

WORK Leave: Return:							
TREATMENT Leave: Return:							
SCHOOL Leave: Return:							
COMM.SVC. Leave: Return:							
APO VISIT Leave: Return:							
OTHER Leave: Return:							

UPDATED INFORMATION

- Home Address: _____ Phone: _____
- Work Address: _____ Phone: _____
- Treatment Address: _____ Phone: _____
- School Address: _____ Phone: _____
- Comm.Svc.Address: _____ Phone: _____
- Other Address: _____ Phone: _____

Forward To Dispatch

ADULT PROBATION DEPARTMENT OF THE SUPERIOR COURT IN PIMA COUNTY
ELECTRONICALLY MONITORED HOUSE ARREST CONTRACT

Probationer's Name _____ CR# _____

Electronic Monitoring Equipment # _____

I, _____, understand and agree to abide by the terms listed below for the electronic monitoring equipment installed in my residence:

1. I will follow the weekly electronic monitoring schedule approved by my probation officer and I agree not to deviate from the schedule without prior approval.
2. I will be at home during curfew hours set by my probation officer and/or the Electronic Monitoring Response Team. I will not leave early or arrive home late except upon the direction of the Adult Probation Department.
3. I will stay at my residence at all times unless the Probation Department directs that I am allowed to leave. I understand that the word residence means the apartment, condominium, townhouse, single family residence, or other dwelling where I actually live during the period of electronic monitoring plus the yard area immediately in front of or to the rear of the residence. In no case does the term residence include any area beyond the signal range of the field monitoring device (FMD) placed inside the residence.
4. I will maintain electrical and operable telephone service at my place of residence.
5. I will not use an answering machine, cordless telephone, call waiting, an answering service, three-way calling, or call forwarding telephone service at my residence.
6. I will not attempt to remove, damage, disconnect or tamper with the transmitter on my ankle.
7. I will not attempt to remove, damage, disconnect or tamper with the monitoring equipment which is placed in my residence. I understand that theft or damage to equipment may result in additional felony charges being filed along with a petition to revoke my probation pursuant to ARS 13-1602 and ARS 13-1802.
8. I am financially responsible for any intentional damage to the monitoring equipment.
9. I will immediately contact the probation office to report any known malfunctions in the monitoring equipment placed in my residence, or attached to me.
10. I will immediately contact the probation office if any emergency occurs. An emergency is imminent danger to self, family, or household residents, or personal medical needs requiring immediate hospital treatment.
11. I will respond immediately to telephone calls to verify that I am at my place of residence.
12. The field monitoring device installed in your residence will emit a "clicking" sound in the earpiece of your telephone when it is calling the host computer. You shall hang up the telephone immediately when you hear the "clicking" sound and wait until the FMD completes its call to the host computer.
13. I will be subject to arrest for a confirmed electronic monitoring violation.

Probationer's Signature Date

P.O./S.O./P.S.S. Date

Copy given to defendant
this date. _____
APD 2/93

DEPARTAMENTO DE PROBACION DE ADULTOS EN EL TRIBUNAL SUPERIOR DEL CONDADO DE PIMA
ACUERDO DE DETENCION DOMICILIARIA CON VIGILANCIA ELECTRONICA

Nombre del Condenado a Libertad Vigilada _____

Núm. de Caso _____ Núm. de Equipo Electrónico de Vigilancia _____

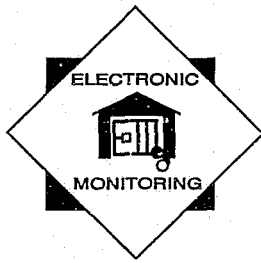
Yo, _____, entiendo, acepto y convengo cumplir con las condiciones enumeradas a continuación referentes al equipo electrónico de vigilancia a instalarse en mi domicilio:

1. Seguiré el Programa Semanal de Vigilancia Electrónica que ha sido aprobado por mi Oficial de Probación y acuerdo no desviar de dicho programa sin aprobación previa.
2. Permaneceré en mi domicilio durante las horas de detención fijadas por el Oficial de Probación y/o la Oficina de Vigilancia Electrónica. No saldré de la casa temprano ni llegaré tarde sin la autorización del Departamento de Probación de Adultos.
3. Permaneceré en mi domicilio en todo momento al menos que el Departamento de Probación me autorice salir. Entiendo que la palabra "domicilio" significa un apartamento, condominio, casa compartida, casa particular o cualquier vivienda que sea mi lugar de residencia durante el período de detención con vigilancia electrónica, y ha de incluir el traspaso o la parte delantera del domicilio. El término "domicilio" jamás podrá incluir un lugar que esté fuera del alcance del receptor electrónico de vigilancia que ha sido colocado adentro de mi domicilio.
4. Me ocuparé de siempre mantener al día los servicios de electricidad y teléfono en mi domicilio.
5. En mi domicilio no usaré contestador automático (grabadora de mensajes telefónicos), teléfono a baterías (sin cable), servicio que interrumpe llamadas telefónicas, servicio que toma recados, servicio de teleconferencias (para conversar con más de una persona a la vez), ni servicio que transmite la llamada a otro teléfono que no sea el del número marcado.
6. No trataré de quitar, estropear, desconectar ni descomponer el transmisor atado a mi tobillo.
7. No trataré de remover, estropear, desconectar ni descomponer el receptor electrónico que ha sido colocado en mi domicilio. Entiendo que con el robo o estropicio del equipo de vigilancia, se me pudiera acusar con otros delitos mayores y además revocar la probación conforme a los estatutos del Estado de Arizona ARS 13-1602 y ARS 13-1802.
8. Tendré que pagar por cualquier daño hecho adrede al equipo de vigilancia.
9. Si no está funcionando el equipo de vigilancia que se encuentra en el domicilio o en mi persona, me comunicaré de inmediato con el oficial de probación.
10. Me comunicaré de inmediato con el oficial de probación en caso de cualquier emergencia. Una emergencia ocurre únicamente si algo pone en peligro mi vida, la de mis familiares u otros residentes del domicilio, o si surge una condición física que requiera tratamiento médico urgente en un hospital.
11. Responderé de inmediato a las llamadas telefónicas que verifican que me encuentro en el domicilio.
12. El aparato receptor que ha sido instalado en el domicilio produce un sonido parecido a un "chasquido" que se oye por el auricular del teléfono cuando el aparato se está comunicando con la computadora central. Si usted oye este "chasquido" es preciso que cuelgue el teléfono inmediatamente para permitir que el receptor electrónico siga transmitiendo a la computadora central.
13. De no cumplir con las condiciones de esta vigilancia electrónica estaré expuesto a que me lleven preso.

Firma del Condenado a Libertad Vigilada Fecha

P.O./S.O./P.S.S. Fecha

Copia entregada al
acusado en esta fecha: _____



APPENDIX 9:

**PROGRAM OVERVIEW AND RECOMMENDED
GUIDELINES**

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CORRECTIONS**

JANUARY, 1994



COMMONWEALTH of VIRGINIA

EDWARD W MURRAY
DIRECTOR

Department of Corrections

P. O. BOX 26963
RICHMOND, VIRGINIA 23261
(804) 674-5000

January 4, 1994

MEMORANDUM

TO: Regional Administrators

FROM: Andrew Molloy, Jr. *[Signature]*
Special Programs Manager

RE: Home Electronic Monitoring (HEM) Program Overview

Reference is made to Mr. Johnson's memorandum of December 9, 1993, regarding Pre-Parole Plans for HEM Offenders. Also, I make note of a request from the field regarding a HEM program overview.

The attached HEM Program Overview was developed as a result of the above noted situations. It was also developed after a review of a draft by the members of the VPB/DOC Joint Task Force.

This HEM Program Overview is to be provided to all Chiefs so that they can distribute it to field staff. It can be provided to potential HEM offenders held in local facilities. Feel free to provide copies to the local facilities in your respective regions; in as much as their staff sometimes reviews HEM with offenders.

I will be forwarding a copy to Forrest Powell so that he can have it distributed to all institutions. Often counseling staff are asked to explain HEM to inmates being released to HEM supervision.

Should you have any questions please call.

/tvk

cc: Gene M. Johnson
Chiefs of Operations
R. Forrest Powell
Eva Ferguson
Bill Crenshaw

HOME ELECTRONIC MONITORING (HEM)
PROGRAM OVERVIEW

HOMEOWNER PARTICIPATION

- o THE FAMILY, HOMEOWNER, OR OTHERS WHO ARE RESPONSIBLE FOR THE HOME, WILL BE VISITED BY A PROBATION AND PAROLE OFFICER AND/OR SURVEILLANCE OFFICER PRIOR TO THE OFFENDER BEING ACCEPTED FOR THE PROGRAM.
- o THE HEM PROGRAM WILL BE EXPLAINED IN DETAIL TO THE FAMILY, HOMEOWNER, OR OTHERS. THEY WILL BE ASKED TO SIGN A FORM AGREEING TO PARTICIPATE IN THE PROGRAM.
- o ALL ENHANCEMENTS MUST BE REMOVED FROM THE PHONE SYSTEM. THIS INCLUDES CALL FORWARDING, CALL WAITING, ETC. ONLY BASIC SERVICE WILL BE PERMITTED.
- o THE PHONE AND ELECTRICAL SYSTEMS MUST BE MAINTAINED IN WORKING ORDER DURING THE OFFENDERS' PERIOD OF HEM SUPERVISION.
- o IF THE HOME PLAN IS UNACCEPTABLE OR THE HOMEOWNER DOES NOT WANT TO PARTICIPATE, A NEW HOME PLAN WILL HAVE TO BE DEVELOPED BY THE OFFENDER.

OFFENDER PARTICIPATION

- o THE OFFENDER WILL VOLUNTEER TO PARTICIPATE AND WILL SIGN FORMS AGREEING TO:
 1. PARTICIPATE
 2. FOLLOW PROGRAM RULES AND REGULATIONS
 3. BE RESPONSIBLE FOR THE HEM EQUIPMENT ASSIGNED TO HIM/HER
 4. PAY A \$30 HEM FEE PRIOR TO COMPLETION OF HEM SUPERVISION
- o THE OFFENDER WILL BE SUBJECT TO A CURFEW ESTABLISHED BY THE SUPERVISING PROBATION AND PAROLE OFFICER. THE CURFEW SCHEDULE WILL BE:
 1. STRICT, LIMITING MOVEMENT AWAY FROM THE HOME
 2. ALLOW FOR EMPLOYMENT, VISITS TO TREATMENT/RESOURCE SERVICES, AND VISITS TO THE PROBATION AND PAROLE OFFICES
 3. LIMIT ALL EXTRACURRICULAR ACTIVITIES
 4. LIMIT ALL TRAVEL
 5. VIOLATION OF CURFEW COULD RESULT IN IMMEDIATE ARREST AND RETURN TO INCARCERATION
- o THE OFFENDER WILL PARTICIPATE IN THE HEM PROGRAM FOR A PERIOD OF TIME TO BE ESTABLISHED BY HIS/HER SUPERVISING PROBATION AND PAROLE OFFICER.
- o ANY HEM EQUIPMENT LOST OR STOLEN BY THE OFFENDER COULD RESULT IN THE OFFENDER BEING CHARGED WITH A NEW FELONY AND BEING RESPONSIBLE FOR PAYMENT OF RESTITUTION.

- THE OFFENDER WILL BE SUBJECT TO RANDOM DRUG/ALCOHOL SCREENS AND MAY BE REQUIRED TO PARTICIPATE IN EITHER OUT-PATIENT OR IN-PATIENT DRUG TREATMENT AS A RESULT OF A POSITIVE URINE SCREEN.
- THE OFFENDER WILL OBEY ALL CONDITIONS OF PROBATION/PAROLE SUPERVISION IN ADDITION THE RULES AND REGULATION OF THE HEM PROGRAM. ANY VIOLATIONS COULD RESULT IN IMMEDIATE ARREST AND RETURN TO INCARCERATION.
- ALL OFFENDERS ON HEM SUPERVISION ARE ALSO ON INTENSIVE SUPERVISION AND REPORT TO THE DISTRICT OFFICE AT LEAST ONCE A WEEK.
- THE OFFENDER WILL WEAR AN ANKLE BRACELET, WHICH IS TAMPER PROOF, AT ALL TIMES WHILE ON HEM SUPERVISION. IT WILL ONLY BE REMOVED BY THE SUPERVISING PROBATION AND PAROLE OFFICER. UNAUTHORIZED REMOVAL BY THE OFFENDER WILL RESULT IN IMMEDIATE ARREST. THE BRACELET IS WATER PROOF, TAMPER PROOF, CAN BE WORN WITH WORK BOOTS, AND CANNOT BE REMOVED BY PULLING IT DOWN OVER THE ANKLE/FOOT.
- A FIELD MONITORING DEVICE (FMD) WILL BE PLACED IN THE HOME. IT WILL BE PLUGGED INTO THE PHONE AND ELECTRICAL SYSTEMS. IT IS TAMPER PROOF AND CANNOT BE MOVED WITHOUT THE SUPERVISING PROBATION AND PAROLE OFFICER'S AUTHORIZATION. IT WILL NOT INTERFERE WITH THE PHONE OR ELECTRICAL SYSTEMS.
- THE PARTICIPATION IN THE HEM PROGRAM MAY BE A "LAST CHANCE" EFFORT AT COMMUNITY SUPERVISION. FAILURE TO COMPLY MAY RESULT IN IMMEDIATE ARREST AND INCARCERATION.
- ALL OFFENDERS ON HEM SUPERVISION MUST SEEK EMPLOYMENT (FULL-TIME OR PART-TIME) OR ATTEND SCHOOL ON A FULL-TIME BASIS IN ORDER TO COMPLETE THE PROGRAM. FAILURE TO OBTAIN EMPLOYMENT MAY RESULT IN AN EXTENSION OF HEM SUPERVISION.
- OFFENDERS OR INTERESTED PARTIES CANNOT APPLY FOR HEM AS A SPECIAL CONDITION OF PAROLE SUPERVISION. SUCH PLACEMENTS ARE SOLELY AT THE INITIATIVE AND DISCRETION OF THE VIRGINIA PAROLE BOARD.



COMMONWEALTH of VIRGINIA

EDWARD W. MURRAY
DIRECTOR

Department of Corrections

P.O. BOX 20283
RICHMOND VIRGINIA 23211
(804) 674-3000

June 24, 1992

MEMORANDUM

TO: Chief Probation and Parole Officers

FROM: Andrew Molloy, Jr. *Andrew Molloy*
Special Programs Manager
1506

RE: Home Electronic Monitoring

The attached are recommended guidelines for HEM. As stated, they are recommended guidelines; not policy and procedures in as much as you will face certain situations in your district that require you to take certain action.

These guidelines were prepared to assist the districts in their operation of their respective HEM programs. The guidelines can help make your program efficient and beneficial to the offender and staff.

If you have any questions please contact me.

/tvk

Attachment

cc: Gene M. Johnson
Regional Administrators
Chiefs of Operations

HOME ELECTRONIC MONITORING
RECOMMENDED GUIDELINES

1. Curfews are an important, if not the most important component, of a successful HEM program and should be stringently enforced.
 - A. Any extra curricular activities should be completed within the allowed "out" times. Such activities include, but are not limited to, working on the farm, walking the dog, taking out the trash, cutting grass, hanging out the clothes, etc.

If the offender cannot complete tasks in the "out" time, he/she can have someone else do them.
 - B. Discourage any extra curricular activities the first 30 days of HEM. Such activities that should be discouraged include, but are not limited to, church (if not a regular activity prior to HEM), movies, sports activities, concerts, theme park visits, recreational activities, etc.
 - C. During the first 30 days the offender's activities should be limited to the following: work, seeking work, treatment, NA/AA meetings (set by PO), office contacts with PO.
 - D. During the first 30 days the program should be, in essence, a house arrest situation, with relaxation of restrictions regarding extra-curricular activities occurring in a gradual manner.
2. Offender movement should be limited throughout the period of the offender's HEM supervision.
 - A. Districts should not allow HEM offenders to transfer to other districts, unless the transfer is absolutely necessary; is considered beneficial to the client; and interruption of HEM supervision does not occur.
 - B. Any trips outside the district's designated travel area, whether the trips are day trips or overnight trips (with overnight trips not being allowed unless an emergency), should be prohibited.
 - C. Any employment that involves overnight trips, such as truck driving, fishing boats, sales, etc., should be prohibited.
 - D. If possible, and if employment is not jeopardized, the employer should be made aware of the offender's HEM supervision.

cont., page 2

3. Documentation is essential, especially in this high profile program which has the potential to expand and will be under close scrutiny.
 - A. Document any responses to violations as soon as possible. If a violation occurs during non-work hours, make a note of the response, and log it in the file as soon as possible.
 - B. Document any contacts with the HEM offender, no matter how non-essential the contact may seem.
 - C. Document any contacts with the HEM offender's family/concerned persons, no matter how non-essential the contact may seem.
 - D. There will be numerous contacts so be prepared to develop a system that will allow documentation to occur in an efficient, non-burdensome manner.
 - E. If the offender is legitimately late from returning from an approved activity such as a job search, treatment meeting, NA/AA meeting, etc., have him/her produce written documentation of when he/she arrived at and left the activity.
4. Supervision of the HEM offender, while on HEM supervision and after HEM supervision, requires a great deal of work by the supervising officer.
 - A. HEM supervision should be for a minimum period of 90 days to ensure maximum utilization of HEM as a supervision tool.
 - B. Consider placement in Phase I of Level I for 30 days following completion of HEM supervision. The offender may tend to act out once HEM restrictions are lifted; he/she is now free to roam without restrictions. Continued supervision in Level I, Phase I will allow for a smoother transition to Level I, Phase II supervision.
 - C. HEM supervision should not be less than 45 days as maximum utilization will probably not occur and the offender will not experience an impact from HEM. Also, installing and removing offenders from HEM is a labor-intensive program and short periods of HEM supervision will prove to be a burden on staff.
 - D. As the offender moves toward completion of HEM supervision consider lessening of restrictions.
 - E. Emphasize this as a "last chance" option.

cont., page 3

- F. Violations should be handled with discretion; you will see unauthorized "outs" of very short durations; ie: 5 to 10 minutes. Consider traffic, public transportation delays, etc., but be aware of regular, short "out" periods which could be indictative of negative behavior.
- G. Be prepared to issue PB-15's when offenders have unauthorized "outs" overnight. If such an unauthorized "out" occurs, issuance of a PB-15 should be considered first thing the next day (weekends included).

5. Home plans/installation:

- A. Discourage (consider rejection) home plans to lovers, friends, acquaintances, partners, etc. as these plans tend to result in the offender being "kicked out" more frequently than when the home plan is with family.
- B. Fully explain HEM supervision to the family.
- C. Check to make sure that the telephone jack and electrical outlet are in close proximity to each. Avoid the use of extension cords for the telephone and electricity.
- D. The FMD should be placed on a table, stand, chair, or other sturdy piece of furniture. Placement should never be on the floor. Placement should be in a free standing situation.
- E. Do not place the FMD on electrical appliance; especially TV's, stereos, refrigerators, microwaves, and other major electrical appliances.
- F. Do not place the FMD near window or doors.
- G. Advise the offender that wherever the FMD is placed, it is to remain in that place-no moving of the FMD should occur.
- H. The offender or family should move all furniture , if necessary, when the officer installs the FMD.
- I. Remove all telephone enhancements.
- J. It is the responsibility of the offender to clean the FMD before it is removed and returned to the district office.

6. Do not mention the radius limitations of the FMD. Emphasize to the offender that he/she should not leave the home's interior. Offenders will test the perimeter, pushing it to the limit.

cont., page 4

- 7. Completion of HEM supervision should not occur unless the offender has met the following criteria:
 - A. maintained employment (part-time is acceptable)
 - B. adhered to the HEM schedule
 - C. submitted clean urine screens
 - D. reported to the district office as scheduled
 - E. participated in appropriate treatment programs
 - F. paid the \$30 fee
 - G. did not tamper with the FMD or transmitter
 - H. remained arrest free

- 8. Remember: The officer runs the program, not the offender.

1506

RECEIVED
 JUN 14 1994
 DISTRICT OFFICE
 1111 14TH ST
 VANCOUVER BC
 V6E 2K1
 TEL: 604 681 3000
 FAX: 604 681 3001

HOME ELECTRONIC MONITORING (HEM)

PART I

I. PURPOSE

To establish policy and procedure for the home electronic monitoring of probationers, parolees, and pardonees, under supervision/investigation by the Division of Community Corrections. To provide increased supervision, surveillance, and monitoring of offenders to enhance the protection of the community. The policy and procedure will address home electronic monitoring, as opposed to home electronic incarceration (see definitions).

II. AUTHORITY

Section 53.1-131.2, 19.2-303, 19.2-303.2, 19.2-304, 53.1-10, 53.1-67.1, 53.1-136, 53.1-139, 53.1-140, 53.1-145, 53.1-148, 53.1-151, 53.1-154.1, 53.1-155, 53.1-157, 53.1-161, 53.1-165, 53.1-180, 53.1-181, 53.1-185, Code of Virginia (1950), as amended.

III. EFFECTIVE DATE

This Division Operating Procedure is effective October 16, 1992

IV. REFERENCES

Electronic Monitoring in Intensive Probation and Parole Programs (Monograph, 1989), Bureau of Justice Assistance, U.S. Department of Justice
Electronic House Arrest: Program Feasibility Assessment-Fairfax County and Norfolk City Pilots, Virginia Department of Corrections Final Evaluation Report, 1988.
Use of Electronic Monitoring by Criminal Justice Agencies 1989, National Institute of Justice, 1990
Designing an Electronic Monitoring Program, National Institute of Corrections, 1989

V. POLICY

It is the policy of the Division of Community Corrections to provide a home electronic monitoring (HEM) program for selected probationers and parolees. HEM will serve as a supervision tool to provide risk control and surveillance of offenders who meet specific selection criteria. HEM will serve as a sanction for probation and parole technical violators, a release option for parolees, and an enhanced supervision tool to be used for noncompliant probationers and parolees. In essence, HEM will be an enhancement of the Intensive Supervision Program. Offenders who are placed in the HEM program will adhere to a mandated curfew schedule which will be monitored electronically by the use of equipment designed specifically for that purpose.

VI. DISCUSSION

The use of home electronic monitoring for criminal offenders first came into use in 1984 and by early 1988, was in use in thirty-two states. In Virginia, HEM programs were first used in the mid 1980's by local Sheriff's departments as an early release option. In 1990, the Virginia Parole Board received a Department of Criminal Justice Services grant to provide HEM for parolees in Winchester and the City of Richmond. Upon termination of the grant, the Virginia Department of Corrections, Division of Community Corrections, provided HEM for parolees in the City of Richmond; through the Division's Intensive Supervision Program grant (funding provided through the Department of Criminal Justice Services).

The Division found that HEM served as an effective supervision tool for parolees, while enhancing public safety through increased monitoring/surveillance of selected offenders. Thus, when the Department of Criminal Justice Services offered additional grant funds, in late 1991, to provide HEM for probationers and parolees, the Division actively sought out the funds. Finally, the 1992 General Assembly provided additional funding to the Division for HEM in fiscal years 1992-93 and 1993-94.

HEM will provide the Department of Corrections, Division of Community Corrections, with a cost effective supervision tool for selected probationers and parolees. The use of HEM will allow for an alternative to incarceration, while still providing a concept of punishment, for those offenders who have been denied parole on one or more occasion, are in violation of technical conditions of probation and/or parole, or are non-compliant with the conditions of probation and/or parole. Public safety can be enhanced through the use of HEM for selected offenders, by providing increased surveillance and monitoring of offender activities. HEM will be a component of the supervising district's Intensive Supervision Program.

VII. DEFINITIONS

- A. HOME ELECTRONIC MONITORING (HEM): a means of monitoring an offender who is on probation and/or parole supervision. The offender's activities are monitored at home and in the community, through the use of an electronic transmitter device that the offender wears on the ankle. Said device will send a continuous radio signal to a field monitoring device that is placed in the offender's home and to a drive-by monitor that is utilized by the supervising probation and parole officer.

- B. Home Electronic Incarceration: a means of monitoring local jail or prison inmates who are released to the community prior to serving the balance of their sentence. This type of supervision is for offenders who meet certain criteria for early release, but upon release, are still considered an inmate of a local jail or prison.
- C. FIELD MONITORING DEVICE (FMD): a device placed in the offender's home that receives a continuous radio signal transmitted by an ankle bracelet worn by the offender. The FMD is connected to home's existing telephone and electrical systems to transmit activities to a monitoring center.
- D. TRANSMITTER: a device worn on an offender's ankle that transmits a continuous radio signal to a FMD or drive-by unit.
- E. CURFEW: home confinement during limited and specific hours; said hours to be determined by the supervising probation and parole officer.
- F. INTENSIVE SUPERVISION PROGRAM: a component of probation and parole supervision that provides for an increased use of monitoring, surveillance, and supervision for high risk/high need offenders.
- G. OFFENDER: probationer, parolee, pardonee placed under the direct supervision or investigation of the Division of Community Corrections by a Court and/or the Virginia Parole Board.
- H. SUPERVISING OFFICER: probation and parole officer, which is an agent of the Division of Community Corrections, assigned to supervise or assist in the supervision of offenders.

PART II

VIII. OFFENDER SELECTION/SUPERVISION

- A. Any offender who for the instant offense or any other offense has been convicted of the following offenses: murder, sex offenses of any kind, manslaughter (excluding vehicular manslaughter), drug distribution, felonious assault, or kidnaping; will not be eligible for HEM unless HEM participation is ordered by the Virginia Parole Board.

- D. Any offender selected for HEM supervision will:
1. volunteer to participate
 2. sign the Home Electronic Monitoring Program Rules
 3. have a suitable home plan and have the family/homeowner of the home plan sign the consent form
 4. sign the Home Electronic Monitoring Receipt form for equipment and be fully responsible for all equipment assigned to him/her
 5. have a working telephone, free of enhancements, in the residence and keep the telephone in operation while on HEM supervision
 6. have a working electrical system in the residence and keep the electrical system in operation while on HEM supervision
 7. pay a \$30 HEM fee prior to completion of HEM supervision
 8. be subject to random drug/alcohol screens, both on-site and off-site
 9. secure and maintain employment
 10. obey all the conditions (normal and special) of his/her probation/parole
- E. Supervision of selected offenders:
1. All offenders placed on HEM supervision will also be supervised in the district's Intensive Supervision Program. Initial supervision will be Level I, Phase I. Upon successful completion of HEM supervision, the offender can be placed in Level I, Phase II.
 2. Length of time for HEM participation will be determined by the supervising officer with approval by his/her Deputy Chief/Chief Officer.
 3. The supervising officer will set up the offender's curfew schedule based on the offender's employment, school, treatment, reporting schedule. All curfews should limit movement of the offender outside the home except for the aforementioned requirements.

- B. Offenders selected for HEM supervision will voluntarily participate in the HEM program.
- C. Offender selection for HEM supervision will be in the following priority order.

1. Inmates, presently incarcerated in a state facility, who have been denied release to parole supervision on one or more occasion.
2. Parolees who have violated one or more technical conditions of parole and have been arrested and incarcerated on a PB-15 arrest warrant or Virginia Parole Board warrant. HEM will be used as a sanction for the offenders; with said sanction to be recommended by the Hearing Officer or Virginia Parole Board.
3. Probationers who have violated one or more technical conditions of probation and have been arrested and incarcerated on a PB-15 arrest warrant. HEM can be used as a sanction for these offenders; with said sanction to be imposed by the supervising officer following the show cause hearing.

Note: It is felt that a parole/probation technical violator should be incarcerated prior to placement on HEM so that the offender realizes the seriousness of his/her action, understands that HEM is a release option, and without HEM the result would be continued incarceration. Also, the district will have ample time to consider HEM as a sanction and conduct the necessary home plan investigation.

4. Offenders placed in the district's Intensive Supervision Program by the sentencing court, who in the opinion of the supervising officer, require HEM supervision in addition to intensive supervision.
5. Probationers/parolees who have not yet been arrested for violation of one or more technical conditions of supervision, but are in danger of arrest.
6. Boot Camp Incarceration Program graduates, who in the opinion of the supervising officer, require continued close supervision utilizing HEM upon return to the community.

4. The supervising officer will be contacted immediately by the monitoring service whenever any violation occurs. The supervising officer will follow-up the violation notification in a responsible manner and take appropriate action. Public safety is not to be jeopardized when responding to a violation notification. Pagers will be provided to all Intensive Supervision Programs to allow for immediate notification when a HEM violation occurs. All HEM violations will be faxed by the monitoring service to the district.
5. Any parolee/probationer on HEM supervision, who violates the terms/rules of HEM supervision, will be subject to an immediate return to incarceration if the supervising officer deems such action is necessary. HEM is to be considered a "last chance" opportunity to remain in the community.

PART III

IX. PROCEDURES

- A. See attached Home Electronic Monitoring Logistics Protocol, dated January 22, 1992, from the Classification and Records Unit Administrative Procedure Manual. This protocol addresses the release of inmates to parole supervision with HEM as a condition of the parole release.
- B. Incarcerated inmates under parole consideration:
 1. The inmate will be identified as a HEM candidate, with said identification being forwarded to the Parole Release Unit prior to a final decision to grant parole.
 2. The Parole Release Manager or designee will arrange for the inmate to be advised of HEM and his/her consideration for the program. The inmate's residence must be within the jurisdiction of a primary HEM district.
 3. A proposed placement plan and the inmate's agreement to participate in HEM will be obtained within three (3) to five (5) work days of receipt of the Parole Board's notice.
 4. The district will designate a primary HEM contact person. The district will be requested to confirm availability of phone and the home plan, obtain family/homeowner consent, and project a hook-up

HOME ELECTRONIC MONITORING (HEM)
May 28, 1992

Page 7

date. District staff will notify the Parole Release Unit regarding acceptability/non-acceptability of the plan within ten (10) work days of receipt of the plan.

5. Parole Release Manager or designee will submit signed agreement forms to the Parole Board with either approval of the plan or reasons for non-acceptance of the plan.
6. The Parole Board will certify its decision within three (3) work days.
7. Parole Release Manager or designee will coordinate the release date with the district and institutional transportation staff. This should occur within five (5) to seven (7) work days. The Division of Institutions has selected staging sites for the primary HEM sites.
8. Parole Release Manager or designee establishes the release date and sends the parole conditions to the appropriate facility.
9. Parole Release Manager or designee will advise the Post Release Unit of any persons being paroled to HEM supervision.
10. For those incarcerated inmates under parole consideration who are incarcerated in local facilities, the Parole Release Unit will notify the receiving district of possible HEM participation. All necessary paperwork will be completed and the home plan investigated prior to the offender's release. The district will arrange for the inmate to be placed on HEM supervision the day he/she is released from incarceration.

C. Technical parole violators who are incarcerated:

1. The preliminary parole violation hearing will be held in accordance with existing policy/procedure.
2. The Hearing Officer will impose HEM as a sanction for the technical parole violator.

... plan investigation

5. Upon completion of the necessary paperwork and home plan investigation, the district will arrange the implementation of HEM as a sanction.
6. The offender will be hooked up on HEM on the day he/she is released from incarceration.

D. Technical probation violators who are incarcerated:

1. The Court will hold a show-cause hearing and refer the technical probation violator to the district.
2. The district will determine if HEM supervision is an appropriate supervision tool for the offender.
3. The district will investigate the home plan and complete all necessary paperwork.
4. The district will report to the court that the offender will be placed in the district's HEM program.
5. The offender's HEM supervision will then be initiated. It is recommended that the offender be released directly from incarceration onto HEM supervision.

E. Direct caseload referrals, parolees or probationers:

1. If a supervising officer deems a parolee or probationer to be in need of HEM supervision, prior to arrest on a technical parole/probation violation, he/she can recommend HEM placement to the Deputy Chief/Chief Probation and Parole Officer.
2. If the Deputy Chief/Chief Officer feels HEM placement is warranted, said placement can occur immediately.
3. If a parolee is placed on HEM, the Post Release Unit will be notified promptly of the decision to place on HEM. If the probationer is placed on HEM, the court will be notified.
4. All necessary paperwork and a home plan investigation are to be completed prior to a HEM placement for either a parolee or probationer.

F. Boot Camp Incarceration Program graduates:

1. The Boot Camp Probation Officer notifies the district that HEM placement may be an appropriate aftercare plan.

2. The district conducts a home plan investigation and completes a family consent agreement form.
3. The Boot Camp Probation Officer will have the probationer note his agreement to participate in the aftercare contract.
4. The district and Boot Camp Probation Officer will arrange reporting instructions. It is recommended that upon graduation from Boot Camp, the probationer report directly to the district, or the next day at latest, to be hooked-up on HEM.

X. MONTHLY REPORTS

The supervising officer will be responsible for submitting a monthly report by the tenth (10th) of each month to the Special Programs Manager. The report will denote cases opened to HEM, successfully removed from HEM, unsuccessfully removed from HEM, and other removals from HEM.

XI. APPLICABILITY

These policies and procedures are applicable to all Division of Community Corrections districts and units providing direct services to offenders under their supervision and/or investigation.

XII. ADMINISTRATION

Regional Administrators are accountable for the implementation of these policies and procedures. District/unit heads are accountable for compliance within their respective district/unit.


XIII. SUPERSESSION

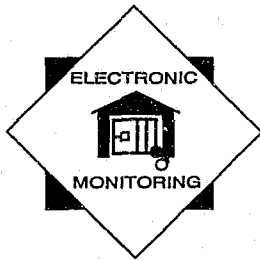
First issue of this Division Operating Procedure

XIV. REVIEW DATE

This Division Operating Procedure will be reviewed and revised not later than two (2) years from its issuance.

10-16-92
(Date)


Gene M. Johnson
Deputy Director
Division of Community Corrections



APPENDIX 10:

PROGRAM OVERVIEW AND VIOLATION LEVELS

**DEPARTMENT OF PROBATION, PAROLE AND
PARDON SERVICES, SOUTH CAROLINA**

SUMMER, 1993

State of South Carolina
Department of Probation, Parole, and Pardon Services

CARROLL A. CAMPBELL, JR.
Governor



MICHAEL J. CAVANAUGH
Director

2221 DEVINE STREET, SUITE 600
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COLUMBIA, SOUTH CAROLINA 29250
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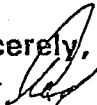
January 19, 1994

Ms. Diane McGinnis
Adult Probation Department of the Superior Court in Pima County
110 W. Congress Street, 8th Floor
Tucson, Arizona 85701

Ms. McGinnis:

Darrell Anne Driskill of the Georgia Board of Pardons and Paroles has requested that I send you the attached material on our Electronic Monitoring Program. Please contact me if I can be of further assistance.

Sincerely,


Theodore H. Kelley Jr.
Administrator, Field Supervision Programs

ELECTRONICALLY MONITORED HOME DETENTION

TRAINING SESSION

SUMMER 1993

I. PROGRAM GOAL:

To enhance the surveillance of Home Detention placements and to restrict the activities of the offender in such a way as to lessen the likelihood of future criminal activity.

II. OFFENDER PLACEMENT GUIDELINES:

This is the most punitive and restrictive community supervision sanction. The program functions as an alternative to incarceration. The sanction is imposed on targeted offenders through three avenues:

1. At a violation hearing before an Administrative Hearing Officer, the Youthful Offender Conditional Release Board or a General Sessions Judge.
2. When considered for parole before the Parole Board or for Conditional Release by the YOA Review Panel.
3. When an offender appears before General Sessions Court and a recommendation for placement, based on established guidelines, has been made by the Presentence Investigator.

III. PROGRAM OVERVIEW:

At the present time, the Electronically Monitored Home Detention (EMHD) program is in operation in nine counties throughout the state. (attachment #1) Within each office, an intensive agent (s) (Agent III) is assigned to supervise offenders placed in the program. Five of the offices have surveillance teams who assist in curfew enforcement during nighttime, weekends and holidays.

The equipment in use employs an active (continuous signaling) system which links a transmitter worn on an offender's ankle to a Field Monitoring Device (FMD) attached to the offender's home telephone system. The Field Monitoring Device receives signals from the transmitter when it is within range and sends a message through the phone line to a host computer located in a secure room in the Department's Central Office. The Field Monitoring Devices outside the Columbia area use a 1-800 telephone line to communicate with the host computer, which represents no additional cost to the offender and his or her family.

IV. PROGRAM ENROLLMENT:

After a decision for placement has been made by the appropriate authority, the offender is assigned to a specialized caseload for Electronically Monitored Home Detention cases. The agent assigned to the case explains Electronically Monitored Home Detention conditions to the offender and obtains the signature of the offender, and the owner or tenant of the household where the equipment

will be installed, on a Participant Agreement. (Attachment #2). The agent and the offender establish a curfew schedule which will allow the offender to work, attend religious services or participate in rehabilitative counseling, but which otherwise restricts the person to his or her home. The "day by day" curfew schedule and enrollment form (Attachment #3) is faxed or mailed to the system administrator in Columbia, along with a Status Change Notification (Attachment #4). The transmitter is then strapped and locked on the offender's ankle.

Upon receipt of the Enrollment and Status change Forms, a file is created for the offender and all relevant information, including the curfew schedule, is entered into the host computer. (Attachment #5)

The field agent installs the Field Monitoring Device in a central location in the offender's home and performs a system check to ensure that the Field Monitoring Device and the transmitter are operating correctly. At this time the host computer generates a "Hello" message on a printout which confirms that the offender is under electronic surveillance. (Attachment #6).

V. Violation Notification Procedures:

1- At the occurrence of an instance of offender non-compliance, the host computer generates a printout with specific information regarding the time of the violation, the type of violation and the list of the last ten messages generated by the Field Monitoring Device in the offender's residence. (Attachment #7). Each business day at 8:30 a.m. a Daily Summary will be generated for all offenders on the system. This will capture all violations, as well as all "enters" and "leaves" with a notification as to whether the activity was a violation of the established curfew. (attachment #8)

2- For counties with fax capability or with a fax agreement with local law enforcement, the Daily Summaries will be faxed directly as soon as the computer run is completed: approximately 9:00 a.m.

3- For counties without fax capability: in the event of an outstanding, non-routine violation, i.e. The offender left home and did not return, a message summarizing the violation will be sent via computer lines to the offices with terminals. (attachment #9) A copy of the Daily Summaries will be mailed each work day.

4- For Cherokee and Berkeley counties, which have neither fax nor computer line capability, in the instance of a non-routine violation, the agent will be notified via telephone. The summaries will be mailed daily as is the policy with counties without fax capability.

5- Each work day at 4:00 p.m. another report program will be run on the HES computer which will document specific violations that have occurred between 8:30 a.m. and 4:00 p.m. for that day. The field offices will be notified in accordance with procedures outlined above in paragraphs two through four.

VI. Violation Guidelines:

When an offender fails to comply with conditions of Electronically Monitored Home Detention, the supervising agent thoroughly investigates the circumstances to determine if the period of unexcused absence was unavoidable

and non-intentional or necessary to protect someone's health or safety, or if the non-compliance was a wilful and unexcusable violation. In either case, the findings are documented with specific reference as to whether or not a violation occurred. If a violation is determined to exist, the response is in proportion to the severity of the violation. A graduated, three level system of responses is employed. (Attachment #10).

A. Violation Level One:

The offender has a brief, unexcused absence (i.e. 15 minutes or less) in either:

1. Arriving home from a period of "excused absence" (such as work) or
2. Departing to an "excused absence" activity.

Response to Level One Violation:

The offender will receive a documented (Form 37) verbal reprimand. Further action will require specific justification.

B. Violation Level Two:

Any of the following circumstances exists:

1. Third occurrence of a level one violation.
2. The offender has "tampered" with any of the monitoring equipment (i.e. ankle strap or field monitoring device.)
3. The offender has an absence of moderate duration (i.e. 15 to 30 minutes) in either arriving or departing from a period of "excused absence".
4. The offender leaves the designated residence for 45 minutes or less during a period of monitored activity.

Response to Level Two Violation:

The violation must be formally staffed and the offender given, at least, a written reprimand.

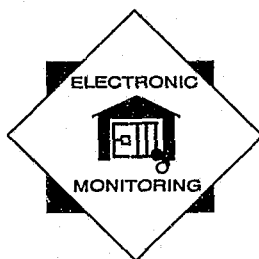
C. Violation Level Three:

Any of the following circumstances exists:

1. Second occurrence of a level two violation.
2. The offender has removed the transmitter.
3. The offender has an absence of extended duration (i.e. more than 30 minutes) from arriving or departing an "excused absence" period.
4. The offender leaves the designated residence for more than 45 minutes during a period of monitored activity.

Response to a Level Three Violation:

Issuance of a citation or warrant.

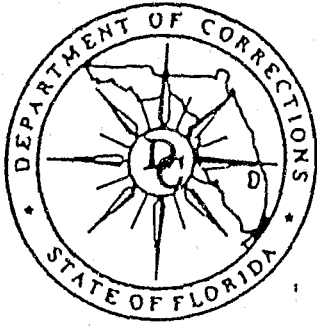


APPENDIX 11:

**PROCEDURE MANUAL
ELECTRONIC MONITORING**

**DEPARTMENT OF CORRECTIONS
TALLAHASSEE, FLORIDA**

NOVEMBER, 1993



Department of Corrections

Harry K. Singletary, Jr., Secretary

Community Control II
Continuous 24 Hour A Day
Electronic Monitoring

Probation and Parole Services

November, 1993

DEPARTMENT OF CORRECTIONS
COMMUNITY CONTROL II MANUALS/ELECTRONIC MONITORING
MANUAL OF PROCEDURES
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COMMUNITY CONTROL AND COMMUNITY CONTROL II BACKGROUND

Community Control

The Community Control, "house arrest", Program was created by the Florida Legislature and was implemented by the Department of Corrections in October, 1983. The program came into existence in answer to a need to address the increasing number of offenders being sentenced to prison. By design, this program provides the court a sentencing alternative for select offenders who might otherwise be sent to prison.

With this purpose in mind, community control is a punishment-oriented program. Offenders in this program are confined to their homes except during hours of employment, public service work or participation in self-improvement programs that are specifically approved by the Community Control Officer. Offenders are responsible for paying restitution to victims, court-ordered fines and costs, as well as monthly fees to the State to offset costs of supervision.

Community Control supervision is more intense than regular probation, therefore, offender caseload size is reduced. The required number of contacts with the offender is also more than is required in regular probation. The officer must make a minimum of twelve (12) contacts per offender each month. Officers work on Saturdays, Sundays, holidays and other irregular hours to monitor the offender's compliance with the required conditions set by the court and the community control officer.

Community Control II

Community Control II (referred to also as electronic monitoring) is an extension of the previously described Community Control Program offering expanded capabilities for the surveillance of offenders. The Florida Legislature approved the implementation of Community Control II in February, 1987, with the view that the program would offer another diversionary sentencing alternative to alleviate prison overcrowding as well as facilitate compliance with federal guidelines regulating the state prison population.

All eligible offenders who are placed in the Community Control II Program are required to wear or to be monitored by a form of electronic security device, depending on the type of equipment used. Types of equipment used by the Department of Corrections include telephone robots, wristlet verifiers, "active" tamper-alert ankle devices and voice verification systems, all of which provide computerized surveillance of the offender during the hours of home confinement.

Offenders must obtain prior approval from the officer for employment or other departures from the offender's approved residence.

Electronic monitoring is considered "a tool" to be used in conjunction with the supervision requirements of the Community Control Program. Electronic monitoring can enhance the surveillance, control and supervision abilities of the officer but does not replace personal supervision by the officer.

DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE SERVICES
COMMUNITY CONTROL II/ELECTRONIC MONITORING
MANUAL OF PROCEDURES

I. Authority and Purpose

The use of electronic monitoring is authorized by F. S. 948.03 as follows:

- The Department of Corrections may, at its discretion electronically monitor an offender sentenced to community control.
- Any offender placed on community control who violates the terms and conditions of community control and is restored to community control may be supervised by means of an electronic monitoring device or system.
- For those offenders being electronically monitored, the Department of Corrections shall develop procedures to determine, investigate, and report the offender's compliance with the terms and conditions of sentence 24 hours per day. All reports of noncompliance shall be immediately investigated by a community control officer.
- The Department of Corrections may contract with local law enforcement agencies to assist in the location and apprehension of offenders who are in noncompliance as reported by the electronic monitoring system. The contract is intended to provide the Department a means for providing immediate investigation of noncompliance reports, especially after normal office hours.
- All active units shall be tamper-alert, effective August 1, 1990.

F. S. 945.30(1) established the Electronic Monitoring Recovery Trust Fund which authorizes the court to impose a condition that offenders on electronic monitoring shall pay a \$1.00 per day surcharge. These funds are used to help offset costs associated with electronic monitoring.*

This manual outlines procedures and guidelines for the implementation and operation of the Department of Corrections Community Control II Program. Community Control II procedures shall be followed in conjunction with procedures as outlined for basic community control.

Information in this manual shall be used to promote efficient, effective and uniform operation of the Electronic Monitoring Program statewide.

*(Note: This needs to be changed to reflect "thirty (\$30.00) dollars per month" instead of \$1.00 per day.

II. Equipment

A. Types

1. Active System

This system works through the use of an ankle or wrist bracelet attached to the offender. For security purposes the anklet and wristlet bands are attached to the offender by a high density plastic band and riveted together. The device emits intermittent radio frequency signals through a transmitter to the receiver unit or field monitoring device (FMD) that is attached to the offender's telephone. The FMD is designed to detect any movement of the offender beyond the specified boundaries.

2. Passive System

The passive system is controlled by a computer. Contracts are programmed into the computer so that telephone calls will be made at random times to the offender. The offender must place a verifier wristlet into a transmitter which then returns a signal to the host computer. If the offender is not home, does not answer the phone or hangs up, the appropriate signal is received by the computer and recorded on a printout. The Community Control Officer may be subsequently notified by a pager system.

3. Voice Verification

This system is a variation of the passive model. Calls are not programmed. It does not require that equipment be placed on the offender. There are two (2) approaches to voice verification:

- a. The computer is programmed to place phone calls to the offender who should respond to a pre-recorded message. The tape recorded response is then screened by a trained technician.
- b. A voice templet is pre-recorded and a coding system in the computer analyzes the voice response.

4. Hybrid System

Some equipment allows the active model to be used in conjunction with the passive system, creating a hybrid-type model.

B. Assignment and Control of Equipment

1. Assignment to Offices

Electronic monitoring equipment shall be issued to a centralized monitoring site. The office supervisor or designee shall sign for equipment when received.

A master inventory log shall be maintained at the circuit office on all equipment listing all units by equipment number and the office site or officer assigned to install equipment. An updated log shall also be maintained at the office site.

A complete audit of the circuit's equipment inventory shall be conducted quarterly, or more often as circuit/regional policy directs.

All equipment at the office site shall be kept in a secure location. The office supervisor, or other staff person designated by the circuit, shall be primarily responsible for security of the equipment as well as the key contact person for maintenance needs and vendor services. The name, address and phone number of this individual shall be made available to equipment vendors.

2. Maintenance Contracts and Billing

Each circuit shall be provided specifics of the vendor's maintenance agreement.

Equipment contracts shall make provisions for replacing batteries and straps in limited quantity sufficient to eliminate the need to purchase additional equipment.

Additionally, when system use is at capacity and units are in repair, back-up units shall be provided by the vendor.

Billing for monitoring services and maintenance agreements shall be sent directly to the Circuit Administrator. Upon receipt, invoices shall be compared with monitoring and equipment logs for accuracy. Certified invoices shall then be forwarded to the Regional Office for payment as soon as possible.

Billing for Operational Capital Outlay Expenditures for the purchase of new equipment shall be handled by the Probation and Parole Program Office in Tallahassee.

3. Assignment to Offender

Offenders placed on electronic monitoring shall be responsible for the equipment assigned to them. The community control officer shall insure that the offender signs the Electronic Monitoring Program and Equipment Assignment Rules form whereby the offender acknowledges receipt of the equipment and his/her responsibility for the care and custody of the unit (Attachment 2). Electronic equipment shall not be sent home with the offender for installation.

The Department shall file a report/complaint with local law enforcement if equipment is stolen, lost or maliciously damaged. Circumstances surrounding such incidents shall be fully documented. The Office of the State Attorney is responsible for filing appropriate charges with the court. The officer, in concert with supervisory approval, shall indicate violation proceedings if it is believed that the offender stole or maliciously damaged equipment. Circumstances shall be documented within the affidavit warrant and violation report.

All payments made by the offender for court-ordered special fines or reimbursements for damaged, lost or stolen equipment shall be in the form of a money order payable to the Department of Corrections. The COPS account for these payments is: Payee ID# 32ELECT001, Electronic Monitoring Recovery Trust Fund - DC, 2601 Blainstone Road, Tallahassee, FL 32399-2500, Contact Person: Jim Bidy.

Officers shall inspect all equipment issued to offenders for signs of tamper or possible equipment malfunctions during each visit. Each inspection will be documented in the field book by the term: EM ✓.

4. Retrieval of Equipment

The officer shall insure that equipment is returned to inventory immediately after it is secured from the offender, the offender's residence or law enforcement.

The officer shall date and sign the bottom of the Community Control Electronic Monitoring and Equipment Assignment form when equipment is returned to the Department in good condition (Attachment 2). This document shall be provided as a receipt to the offender or whomever returns the equipment to the Department.

- a. Offenders arrested - All equipment that is available for retrieval shall be secured from the offender/offender's residence and entered in the equipment log immediately upon notification of the arrest. Each Correctional Probation Administrator shall attempt to develop a working agreement with local law enforcement and county detaining facilities to assist in securing equipment at the time of arrest/booking.
- b. Offenders not in custody pending violation hearings (non-absconders) - Offenders shall remain on electronic monitoring until the time of arrest unless the court directs otherwise. The warrant shall document that the offender is on electronic monitoring, alerting law enforcement to the fact that the offender should have equipment in his possession when he/she is arrested. Each Correctional Probation Administrator shall attempt to develop a working agreement with local law enforcement and county detaining facilities to assist in securing equipment at the time of arrest/booking.
- c. Absconders - All equipment that is available for retrieval shall be secured from the offender's residence and entered into the equipment log immediately upon confirmation that the offender has absconded. The affidavit, warrant and violation report shall document that the offender may have absconded with monitoring equipment. A complaint shall be subsequently filed with local law enforcement if an offender absconds with equipment or if for some reason equipment inside the residence cannot be secured.
- d. Offenders released from the program - Equipment shall be removed from the offender on the last day of supervision on court-ordered cases. Removal of the anklet/wristlet shall be handled by a designated staff member who is trained, if possible. The FMD shall also be secured at the residence this same day. The officer shall provide the offender a Community Control Electronic Monitoring Equipment Form (Attachment 2) that is dated and signed by the officer acknowledging that the equipment was returned in good condition.

C. Installation and Testing of Equipment

When resources allow, all installations and removals shall be handled by one designated staff member who has received technical training in the operation of the equipment being used.

Attachment of the anklet/wristlet monitoring device on the offender may take place either at the probation office or at the offender's residence after a phone line has been installed at the residence. Offenders without telephones who are court-ordered into the program shall be immediately instructed and supervised in accordance with community control standards until a phone line is installed and electronic monitoring begins. The court shall be apprised in advance of any such delays.

The officer shall insure that phone lines are installed and equipment is operational as soon as possible after sentencing.

Officers shall provide schedules to the designated electronic monitoring supervisor/officer so that curfews may be properly programmed. Programming and scheduling shall be entered by the monitoring center within one (1) hour of being notified of this information. Units may be programmed at the office to minimize installation time.

The officer shall make an initial entry in the case sheet to document the date and time that electronic monitoring began (time of hook-up).

Testing of the Equipment

The community control officer shall conduct a test of the equipment at the time the verifier unit and/or radio frequency unit is installed. This test should verify that the field unit and main terminal unit are functioning properly.

The following steps shall be followed in testing equipment at time of installation:

- Test mode is initiated
- Offender response, name and time
- Unit inserted into verifier (if passive)
- Communication is validated by a call to the electronic monitoring specialist or designee for confirmation (on line).
- If communication cannot be validated, unit and hook-up is checked. Test again.

- Batteries may be checked in advance for sufficient power by use of an ohm meter, if available. Batteries suspected of failure shall be returned to the vendor for replacement in accordance with provisions in the maintenance agreements. Faulty equipment is replaced by the vendor at no additional cost to the Department.
- Radio frequency units shall be tested for radio "dead spots." This shall be accomplished by the officer walking the offender through the residence and along property lines.
- After the walk through, the officer shall call the electronic monitoring specialist, designee or monitoring center to confirm system operation.
- Failed equipment operation shall be reported to the designated staff member for further instruction.

III. Monitoring Data

A. Printouts

In both the passive and active models the host computer records and stores information on the hard desk drive that can be printed in a variety of formats for the officers use. Rescheduling of curfew calls shall be made randomly, and the offender file shall be updated accordingly. The supervising officer shall immediately report all changes in the scheduling of curfew calls to the electronic monitoring specialist or designee so that the system may be properly programmed.

Client History/Offender Movement Reports shall be printed out on a daily basis and reviewed by the supervising officer. These shall allow the officer to analyze the offender's movements and also alert the officer to possible violations.

B. Electronic Monitoring Centers/Vendor Provided Services

The Department contracts with monitoring service companies to provide 24-hour monitoring of all active, tamper-alert units. All monitoring centers operate 24-hours per day, seven (7) days per week.

Through the use of a mainframe computer, the monitoring center shall be responsible for generating and reviewing offender movement data.

The center shall generate summaries of the monitoring data, i.e., Client History/Offender Movement Reports, and shall provide this information daily to the probation office in the data format designated by the monitoring site.

The center shall provide immediate notification when unauthorized leave data is detected (Section VI, Notification and Violation). Reported violation shall be followed-up by hard copy documentation from the monitoring center within 30 minutes.

A designated probation and parole supervisor/officer shall be responsible for notifying the monitoring center on the same day offenders are connected and disconnected from the 24-hours active unit. This will enable the center to properly program the computer.

Monitoring centers shall be considered an extension of the Department of Corrections. Both have the mutual goal of offender surveillance. A professional working relationship between probation and parole staff and monitoring staff shall be maintained. Communication and cooperation are essential to the success of the program.

C. Curfew Scheduling

The Department shall be responsible for structuring each offender's schedule and establishing curfews. Officers shall develop curfew schedules that incorporate adequate time allowances for the offender's travel to and from approved scheduled activities away from the residence. Proper scheduling is paramount to the accuracy and efficiency of violation reporting as the monitoring center shall report violations based on the curfew schedules.

In cases where schedules are unavoidably erratic requiring constant revision through the monitoring center, the Department may authorize an alternate scheduling method which utilizes "open-ended" curfews during daytime and early evening. Under these circumstances officers shall rely critically on direct communication with the offender to establish daily schedules. Officers shall also closely analyze the Client History/Offender Movement Reports to confirm that the offender is in compliance with daily schedules. This option is not recommended as a frequent or long-term alternative to traditional curfew scheduling. All schedules shall be approved by the supervisor and documented.

Information regarding the system's curfew programming shall not under any circumstances be divulged to the offender by the Department or the monitoring center.

Each circuit shall designate a central contact person who shall be responsible for faxing or calling schedule changes into the monitoring center for programming into the computer. Schedule changes should be reported to an electronic monitoring center during non-peak hours (before 4:00 - 5:00 p.m.), if at all possible.

For circuits that have decentralized monitoring sites, one office contact person may perform the curfew duties described.

The center shall enter curfew schedule changes as well as initial programming within one (1) hour after case information is provided by the Department.

IV. Identifying Offenders

Referral Source

An offender may be ordered by the Court or directed by the Department of Corrections to be placed on Community Control II (Authorized by 948.03(2)(a), 948.03(3)). Court ordered cases shall be given priority over Department referrals.

All cases considered by the Department for placement on electronic monitoring shall be reviewed and approved by a supervisor. A Community Control II Referral/Placement Form (Attachment 1) shall be completed and provided to the supervisor on all cases recommended for the program. When appropriate, recommendations to the court for Community Control II shall appear in a presentence investigation or in a violation report.

A. Sentencing Court (Special Condition of Supervision)

The sentencing court may, at any time after a hearing, add a special condition to the community control order that the offender shall participate in electronic monitoring. The sentencing court shall be encouraged, whenever possible, to include the following conditions as part of the order:

- You will participate, at your own expense, in the Electronic Monitoring Program as directed by the Florida Department of Corrections and comply with any instructions issued you by the Department concerning the program.
- You will, at your own expense, maintain a private telephone line and telephone approved by the Florida Department of Corrections.
- You will be held responsible for any loss or damage sustained by the equipment.
- You will pay thirty (\$30.00) dollars per month to the Electronic Monitoring Trust Fund.

- Offender is a Florida resident (out-of-state transfers are not available).

Cases that may be recommended by the Department for electronic monitoring include:

- Probation or parole violators who are placed on community control supervision.
- Community control violators restored to community control who are in need of more intensive supervision.
- Sex offenders (these offenders should be given top priority).

V. Intake/Orientation of Offenders

Orientation of offenders shall occur on the first day of supervision whenever possible. Jail split offenders shall be instructed immediately after sentencing and prior to release.

Family members, employers and volunteers who will be affected by the surveillance of the Community Control II Program shall be provided orientation through verbal instruction, VCR training program tape, and/or handouts.

Offenders shall be provided the following documents at the time of orientation:

- A copy of the Order of Supervision.
- Grievance Procedures.
- Electronic Monitoring Program and Equipment Assignment Rules (Attachment 2).

Offenders shall be instructed on the following at the time of orientation:

- Conditions on the Order of Supervision.
- Electronic Monitoring Program Rules
- A plan of supervision outlining specific curfew and time schedules in contract form.
- Residence and work site are viewed as "places of incarceration."
- Types of approved activities.

VI. Contact Standards

A. Community Control

1. Intent of Field Supervision

There shall be ongoing field supervision of offenders in conjunction with electronic monitoring. The intent of field supervision is to:

- Provide extra surveillance of offenders through personal contacts to ensure compliance when authorized to be away from their residence.
- Ensure offender's compliance and adjustment through collateral field contacts, with family members, employers, law enforcement officers, and others.

2. "Contacts" Defined

Contact shall be comprised of the following:

- Face to face personal contact with the offender.
- Face to face collateral contact with employers, family members and law enforcement officers.
- Telephone contact, personal and collateral.
- Drive-by units are available in many circuits and may be used for surveillance contacts with the offender (FSP, HSP). Personal contact, however, should be made with the offender when conditions permit. Discretion with these conditions should be approved by the supervisor.

3. Standards:

Community control supervision shall include contacts during approved times and after 5:00 p.m., on weekends and holidays.

A minimum of three (3) contacts shall be made for each case each week. Minimum weekly contacts shall be as follows:

COMMUNITY CONTROL II
MINIMUM WEEKLY CONTACT STANDARDS

FIELD	OFFICE		
PERSONAL	PERSONAL	COLLAT.	TOTAL
1 FP/FSP or 1 HP/HSP	1 OP or 1 FP or 1 HP	1 or 1 FP/1HP additional	3

At least two (2) contacts each week shall be in person with the offender with at least one of the personal contacts occurring in the field. Field visits may include the offender's residence, place of employment, school and/or public service site. An additional field/home personal contact may substitute for a collateral contact.

Should an employable offender become unemployed, daily contact shall be maintained with the officer until work is found.

Standards shall be met on a weekly basis unless extenuating circumstances warrant otherwise and are approved by management. Contacts are not to be averaged, but are for each case assigned.

B. Electronic Monitoring Contact Standards and Guidelines

The use of electronic equipment can greatly enhance surveillance capabilities and the number of contacts with offenders. When resources allow, equipment shall be made to incorporate 24-hour a day monitoring capabilities.

All contacts, both a.m. and p.m., shall be recorded in the fieldbook and placed in the case file as permanent record.

Any unauthorized absences from home confinement indicated by electronic monitoring shall be noted in the fieldbook and investigated immediately to corroborate that the offender had in fact left the approved residence without authorization. Notes shall also reflect the appropriate action taken.

1. Active System - This system provides a means of continual monitoring during the hours that the offender is confined to the residence.

- All Community Control II Contact Standards shall be met.
 - Supervising officers shall make an initial entry in the casesheet file when an offender is placed on active electronic monitoring which states, "Electronic Monitoring started on (date) at (time)."
 - Daily Summary Reports that are generated at the probation office shall be provided on a daily basis to each supervising officer. These printouts shall be used by the officer to monitor offender movements and to determine possible violations of home confinement.
2. Passive System - Minimum electronic contacts are as follows:
- Twelve (12) Electronic Verified Telephone personals (ETP) are required each month. Three (3) of these must be made each week.
 - ETP's shall be documented in the offender's record as official record of contact.

VII. Notification and Violation Procedures

The following procedures shall be followed:

- The monitoring center shall provide monitoring coverage and notification capabilities seven (7) days a week, 24-hours a day.
- The monitoring center shall be notified of non-compliance activity through data generated by the center's on-site computer.
- The monitoring center shall provide immediate follow-up on noncompliance data by initiating a phone call to the offender's residence and reporting the disposition of the violation within 30 minutes to the probation office.
- Unless the line is busy, one call shall be sufficient to ascertain the nature of the violation. Monitoring center operators should allow for ten (10) rings before disconnecting and then report results to the appropriate probation office.
- The monitoring center shall monitor offender compliance according to the curfew hours established by the Probation Office. The officer shall be responsible for establishing curfews that allow time for offenders to return home from approved activities since the center will not establish such windows (Curfew Scheduling Section II, B (4)).

- The monitoring center shall provide immediately notification of the following:
 - Client Left Early Violations
 - Client Home Late Violations
 - Tamper-Alert Violations
 - Equipment Status Problems (i.e., Receiver shut-down, no message, no answer, etc.)

- The monitoring center shall provide notification to the probation office/contact person designated to receive messages. Messages shall be transmitted via fax machine, remote printer and/or telephone. Violation Reports provided by the monitoring center shall be complete and consistent in contact.

- If, after three (3) days, violation notices continue, vendors shall obtain a status report from the circuit contact person.

- The Probation Office shall assign staff to monitor the remote printer or fax during regular working hours. During regular hours, all violations shall be immediately investigated. Pagers or beepers may be used by officers in the field during assigned work hours so that they may be notified of violations immediately. Cellular telephones may be used to contact the monitoring center.

- Each office shall provide coverage of the appropriate monitoring center transmission device (fax, printer) each day, including weekends and holidays. Reports of violation received from the monitoring center during non-regular working hours or weekends/holidays shall be investigated by the responsible officer immediately.
 - The officer may initiate a phone call to the offender's residence to investigate early leave and home late reports provided by the center. If the officer is unable to establish justification for such a report, a visit to the residence may be made.

 - Tamper-alert notifications, equipment status problems and reports where no contact was made with the offender by the monitoring center may require that the officer visit the residence for further investigation.

- The probation office shall maintain a case fact sheet that contains information on each offender currently being monitored. This information is useful to officers/supervisor who conduct follow-up field investigations. The fact sheet shall contain information such as approved schedules, phone numbers, directions to the residence, a photograph, and any special circumstances, conditions or risk factors.

Investigation at the offender's residence shall include a check of the equipment and a statement from the offender, if located. All findings shall be documented in the fieldbook, and the supervising officer notified as soon as possible when he/she returns to duty. Confirmed violations shall be discussed with the immediate supervisor and followed up with violation procedures, if required.

Correctional Probation Administrators shall coordinate with local law enforcement agencies in establishing arrest procedures that will expedite the apprehension of violators.

VIII. ~~X~~ Terminations and Sentence Reductions *ADD B*

During case review, the officer and his/her supervisor may evaluate the offender's progress and determine the need for continued electronic monitoring.

With supervisor approval, the supervising officer may recommend that the supervision level be reduced from Community Control II to regular community control supervision if the offender has consistently demonstrated above satisfactory adjustment.

IX. Administrative

A. Public Relations

The Correctional Probation Administrator or designee shall act as liaison within the local circuit to coordinate electronic monitoring matters with the courts and law enforcement. The Correctional Probation Administrator or designee shall handle local media inquiries as well as any contact with local legislators.

B. Probation and Parole Program Office

The P&P Program Office is responsible for purchasing equipment, contracting and the overall coordination of the program. The Correctional Programs Administrator shall make certain that all electronic monitoring units are utilized in an efficient cost effective manner and may authorize the transfer of units throughout the State whenever necessary.

The Correctional Programs Administrator shall be immediately notified of all contact noncompliance. If problems arise that cannot be satisfactorily handled at the local level, the Correctional Programs Administrator shall be notified.

C. Data Reporting

1. Electronic Monitoring System Update

The Correctional Probation Administrator or designee at each circuit site shall be responsible for forwarding the Electronic Monitoring System Evaluation Form to the P&P Program Office no later than the tenth day of each month.

This report shall accurately reflect the type of equipment in use, vendor name, utilization data, and information on vendor/equipment service.

This information shall be reported by means of the DC Mail System. The E form used to report this data may be accessed and sent through MIS DC Mail by the following procedure:

- Sign on the DC mail. While on the main menu screen in the command field at the top of the screen, type in 4.1 and enter.
- The 4.1 screen (out-basket message composing screen) will appear on your terminal. In the command field at the top of the screen, type in the following "E form electronic PP forms" (don't include the " marks). Then enter.
- The electronic report form will appear on your screen. To fill out the report, simply move the cursor to the various fields and enter the requested data.
- Free form areas are provided to convey additional comments. If additional space is needed, send an additional message and indicate it is in addition to the report submitted for that particular month.
- When all data has been entered, move the cursor to the top of the screen to the command line and enter the letter "E." Then enter. This will take you back to the 4.1 screen where you will enter the address where you are sending the message.

When you tab the cursor down, it will be under the "O" (option) column. Hit tab right key one time and the cursor will be under the "user/list" column. Type the mailbox ID of the P&P Program Office (DPPS000). Directly under this, type in your own mailbox ID. This will print a copy for you when the message is sent. If you wish to send the report to anyone else, type in their mailbox ID directly under the other two (2) previously mentioned ID's. After entering the mailbox ID addressed, press enter.

- The cursor should now be at the top of the screen in the command field. Type in "send" and press enter. The message will be sent to all the users you put on the 4.1 screen.

You should follow this same procedures each month when submitting this report.

2. Inventory Control

Any equipment transferred to another circuit shall be reported to the Correctional Programs Administrator at the P&P Program Office in Tallahassee. Equipment number, type of equipment and location of the equipment shall be included. Units stolen or severely damaged shall also be reported to the P&P Program Office so that steps for repurchase of equipment may be initiated.

D. Electronic Monitoring Recovery Trust Fund

Electronic Monitoring Surcharge Fee

945.30(1) F.S. has been amended to require that any offender on electronic monitoring shall be subject to payment of a \$1.00 per day surcharge in addition to the cost of supervision.

The EM surcharge applies to those offenders whose crimes were committed on or after August 1, 1990.

The Department shall collect the EM surcharge only by order of the court.

Judges should be asked to include in the Order of Community Control II a condition which will state:

"You will submit to electronic monitoring of your whereabouts as required by the Florida Department of Corrections and will reimburse the State of Florida Electronic Monitoring Trust Fund as provided by 945.30(a) F.S. at a rate of \$30 per month."

Money collected from these Electronic Monitoring fees and reimbursements are placed into a trust fund to defray costs of the electronic monitoring equipment utilized by the Department. This would include replacement of stolen equipment or repair of damaged equipment.

Surcharge Payments made by the offender shall be receipted as COS Special Fines and Reimbursement payments made for court ordered special fines or reimbursement for damaged, lost or stolen equipment shall also be placed in the trust fund account.

Such payments shall be processed as follows:

- Payment shall be in the form of a money order made payable to the Department of Corrections.
- The COPS account for these payments is: Payee ID# 32ELECT001, Electronic Monitoring Recovery Trust Fund-DC, 2601 Blairstone Road, Tallahassee, FL 32399-2500, Contact Person: Jim Biddy.

E. Electronic Monitoring MIS Procedures

A caseload transaction register shall be completed on all offenders on active electronic monitoring, effective the date the equipment is installed, for entry on the PP02 screen in the MIS data base. The status codes are as follows:

S11 - Begin Electronic Monitoring

Reason Codes

- 26 - Court Ordered Placement
- 27 - Department Placement

A caseload transaction register shall also be completed on the day the electronic monitoring equipment is removed:

S12 - End Electronic Monitoring

Reason Codes

- 28 - Completion of Sentence
- 29 - Court Modification
- 31 - Revoked - New Felony
- 32 - Revoked - Technical
- 33 - Absconder
- 34 - Death
- 35 - Revoked - New Misdemeanor
- 36 - Court Action
- 37 - Early Termination

COMMUNITY CONTROL II REFERRAL/PLACEMENT REVIEW

OFFENDER _____ CC# _____
 ADDRESS _____ PHONE # _____
 EMPLOYER _____ SUPERVISOR _____
 ADDRESS _____ POSITION _____ SALARY _____
 RESIDENCE & EMPLOYMENT SUITABILITY COMMENTS: _____

 OFFENSE(S) _____
 CASE #(S) _____ JUDGE _____
 VOP VOCC FSI OTHER (CIRCLE)

ELIGIBILITY CHECKLIST

- No significant history of violence as stated in eligibility requirements.
- Excluding manslaughter & burglary, if current offense is a forcible felony conviction, no prior forcible felony convictions.
- Employability
- No history of excessive substance abuse problems unless the offender has been ordered to enter and successfully complete a treatment program.
- No severe mental disabilities
- Private line telephone # _____
- Comments _____

Referred by _____ Approved by _____
 (Signature and Date) (Signature and Date)

PLACEMENT REVIEW

- Residence verified
- Employment verified
- Private line, standard telephone
- Phone jack
- Three (3) prong A/C power available
- Other
- Plan is Acceptable Unacceptable
- Comments _____

Completed by _____ Approved by _____
 (Signature and Date) (Signature and Date)

COMMUNITY CONTROL ELECTRONIC MONITORING AND EQUIPMENT ASSIGNMENT RULES

Failure to comply with the following conditions may result in your return to Court for violation of Community Control at which time the Court may sentence you to State prison.

- 1.) You will not disconnect, move or tamper with the electronic monitoring equipment in any manner.
2.) You will immediately report any equipment breakage or malfunction to your officer and follow any instructions the officer gives you concerning this situation.
3.) You must use telephone of approved quality. You may not have special features on you phone such as "call waiting", "call forwarding" or an answering machine.
4.) You will submit work schedules for approval on a weekly basis unless otherwise instructed. You must obtain approval in advance from your officer to change your schedule.
5.) You will allow the Community control Officer to inspect the equipment upon request.
6.) You are responsible for the care of the equipment issued to you. You will be held financially responsible for any malicious damage to the equipment and may be criminally prosecuted for equipment theft.
7.) You must allow your telephone to ring at least twice on every call.
8.) Your telephone line must be kept clear during the first fifteen (15) minutes after you arrive home.

The rules of the Electronic Monitoring Program have been provided to me. I fully understand what is expected of me and the possible consequences of any failure to comply with these rules. I agree to release the Department of Corrections Probation and Parole Services, its personnel and the vendor from any liability associated with my participation in the Electronic Monitoring Program.

My signature confirms the above as well as my receipt of the electronic monitoring equipment.

Offender Signature

Date:

Community Control Officer Signature

Date:

Equipment Control#

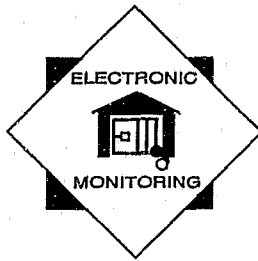
Equipment Returned in Good Condition

Date:

Offender DC#

Received By:

Officer's Name



APPENDIX 12:

THE INTERMEDIATE SANCTIONS HANDBOOK

EXPERIENCES AND TOOLS FOR POLICYMAKERS

HANDBOOK

*CENTER FOR EFFECTIVE PUBLIC POLICY
NATIONAL INSTITUTE OF CORRECTIONS
STATE JUSTICE INSTITUTE
1993*



The Intermediate Sanctions Handbook:

Experiences
and Tools
for Policymakers

Establishing and Maintaining the Policy Team

Bill Woodward*

Introduction *The policy group or policy team is central to the intermediate sanctions process. In the previous chapter we examined the kinds of resources that are required for this effort to succeed. This chapter looks in greater depth at the specific techniques, the tasks and the details, that will keep the policy group engaged, committed, and energetic in their work.*

Like most of the handbook, this chapter is addressed to the staff director or person who will support the work of the policy group. However, its advice on the composition and inauguration of the policy team and its observations on useful group norms make it critical reading for everyone involved in the leadership of an intermediate sanctions effort.

The Need for a Policy Team

You must inspire the policy team to produce an outcome most people desire. In this case, the outcome desired is intermediate sanctions policy. The questions for those staff who have to inspire the policy team are: How do you form a group? Who should be on it? How big should it be? What should it be doing? and, Why bother?

Let's discuss the last first: Why bother?

- No single individual can develop system policy.
- Without policy, things happen randomly. Policy provides the big picture, the reference points to guide actions.
- Without policy, it is unclear who decides what a particular sanction is supposed to do. Punish? Control? Rehabilitate?
- An intermediate sanction cannot be evaluated unless there is agreement on what it is supposed to do. That is the basis of the evaluation.

- The group is likely to have the power not only to make policy but also to implement the accompanying recommendations for programs, practices, and the appropriate placement of offenders.

The answers to the rest of the questions (such as, How do you form a group? Who should be on it?) make up the rest of this chapter. Collectively, the answers represent one way to put together and maintain an effective policy team.

The chapter is divided into three sections:

- The Principles
- The Startup
- Long-term Maintenance.

The first section, The Principles, describes the ground rules for the planning, startup, and maintenance of a policy group. The sections following, on the startup and the long-term maintenance of a group, elaborate on the principles, describing one approach to implementing them. You may come up with your own approach, adapting the principles to meet your needs in a way that is suitable for your jurisdiction.

The Principles

- The policy group must represent all major points of view, system actors, and power brokers, for example:
 - Judges
 - Prosecutors
 - Pretrial service providers
 - Defense attorneys
 - Probation and/or community corrections managers
 - Officials from privately run programs or sentencing options
 - Jail administrators
 - Chief law enforcement officers
 - Legislators
 - County commissioners
 - Representatives from the mayor or county executive's office
 - Directors of victim organizations
 - Public representatives.
- Staff and other resources must be available, as discussed in the preceding chapter.
- Staff, whether in-house or contracted, must have research, planning, and facilitation skills.

*As the director of the Criminal Justice Division of the Colorado Department of Public Safety, Bill Woodward has served as a member of and staff to many policy teams of this type. His keen insights into, as he puts it, "the care and feeding" of a group of policymakers who are used to being individually the center of staff's attention are sure to save others from some painful learning experiences.

- The group must use a process of planned change.
- The group must produce products: reports, legislation, policy recommendations, data analysis.
- The group must discuss sentencing philosophies in its deliberations.
- The emotional and physical concerns of members must be acknowledged and managed.
- There must be a balance between staff and policy team members. Neither can dominate; it must be a team effort.
- The policy team must "scan" the environment as well as its own process and work. (See Exercise 5-2 in this chapter for a suggested approach.)
- Members of the policy team who report to another policymaker must have the commitment of that person to work on this problem.
- The policy group should not exceed 25 to 30 members. Use subcommittees to work on difficult or special interest problems.

The Startup

Preparation

Identify the Policy Team.

The first step is to identify the members of the policy team. One approach is to form a startup team of interested policymakers and staff to identify other potential members and a chairperson, if one has not already been appointed.

For the initial planning session, invite interested peers from other agencies or branches of government, if possible. Heterogeneous (multiagency) groups are far more productive for the early planning.

Part of the work in identifying potential policy group members is to determine the extent of political support for this effort. Who will and will not support it, and why? Do a stakeholder Power Analysis or comparable exercise. (See Exercise 5-3 in this chapter for a suggested approach.) This will help to identify who needs to be on the team and who

might be more useful to your efforts as a supportive nonmember; who needs to be kept informed and who will oppose the effort, no matter what. The exercise may also suggest strategies for handling relationships with external groups and agencies and powerful policymakers not on the team. It will certainly begin to frame the job that lies ahead.

The main criteria in choosing members are, first, their power and influence with their peers and the larger community; and second, their openness to ideas and new ways of looking at old problems. Selecting individuals on the basis of ideology alone typically is not a good criterion.

In identifying a chair, look for these same strengths, combined with broad respect among other policymakers and a cooperative leadership style.

Staff should attend startup meetings.

Identify a Staff.

The ideal staff will include a full-time director, a full-time researcher, and at least a half-time clerical position. Justice cannot be done to this process without such staffing. (Chapter 4, *Essential Ingredients for Success*, suggests possible sources for this kind of staff support.)

Contact Each Potential Member.

Do this yourself if possible. Describe the policy process. Identify other members being considered. Ask about their interest in serving.

If the person is a likely member of the policy group, conduct a full interview. This is important for two reasons: First, you want to know as much as possible about this person either before he or she is appointed or, at the very least, before the group meets. The more information available about who the group really is, the greater the chances of success. Second, the responses to the questions become the focus of your first team-building session once the group starts to meet: Staff presents to the policy team the range of responses to the first eight ques-

tions listed below. This should produce a good discussion about the direction of the effort, possible outcomes, likely pitfalls, and opportunities.

Questions to ask include:

1. What interests you about this project?
2. What are your hopes for this project?
3. What are your fears for this project? (If members seem unaware of the risks they are taking in joining the team, be sure to point them out.)
4. What are reasonable goals for the first year of the project?
5. What do you expect the staff to do?
6. Does the group appear balanced to you? How would you change it?
7. Should we be doing this? Why?
8. What meeting dates/times are best for your schedule?
9. Is there anyone in this group with whom you cannot work?
10. (If applicable) To what extent do you have the support of your superior for your work in this area?

If the group is not appointed yet, add these questions:

11. Do you want to be considered for this group?
12. Are there others who should be contacted to be in this group?

Prepare the Members of the Group.

Provide prospective members with materials and a reading list. Provide easy access to the staff.

Get Them Appointed Officially.

One way to gain the commitment of group members is to create an important public context for their work. Once the composition of the group has been agreed on, have the members appointed officially. The more "official" the group, the greater its legitimacy and authority. Go to the highest leadership in the jurisdiction for the appointments (county commissioners, governor, city council, mayor, state legislative leadership, or the presiding judge).

Have certificates of appointment printed and arrange for press coverage and photographs.

First Steps

Scan the Environment.

Before the group begins work on the foundation of its efforts (the mission, goals, and objectives), it must understand the environment in which it works. Everyone knows about the environment from his or her own perspective; an organized process of scanning the environment, conducted as a group task or exercise, is a method for compiling all of the individual perspectives of the policy group members into a total picture. (See Exercise 5-2 in this chapter for one suggested way to do this.)

Agree on a Mission Statement, Goals, and Objectives.

The mission statement must stir the imagination and focus the team's resources. It should be proactive; a reactive mission will hold back the team. There must be some risk in the mission. Without risk, everyone plays it safe, and little is accomplished.

Goals are the specific "end events" at which you wish to arrive. A goal is focused on addressing specific problems before they get too big. Goals may break down large problems into a series of manageable ones.

Objectives are the measures used to ensure that you reach each goal. Objectives should be stated in measurable terms.

Operate by Consensus.

Consensus is not compromise, nor abdication, nor winning so that others lose. Rather, consensus is an agreement with others that may not be an ideal solution, but is a result that all can "live with."

Agree on Rules for the Group and Keep Them Simple.

- One person speaks at a time.
- No side conversations.
- No cheap shots.
- No war stories.
- Work for consensus.
- Parochial interests are left at home.

Get consensus on these rules—your first consensus!

Agree on the Role of Staff.

Many things influence the role staff will play with a policy group. The seniority of the staff, their "home" agency (see Chapter 4, Essential Ingredients for Success, for different approaches to staffing), the skills and style of the chair, and the dynamics within the group are just a few of the likely factors.

Staff may serve as full members of the group—participating in all discussions, voicing opinions, agreeing to consensus decisions. Or staff may be valuable resource people who offer knowledge when asked but whose primary responsibilities lie in the preparation for meetings, not in participation. There are, of course, all manner of variations and combinations of these two basic models.

Another basic issue in this area is the relationship that staff will have with individual members of the policy team. For example, are staff available to do research or prepare materials at the request of members?

In some groups, staff also serve as facilitators of meetings and discussions.

Doing Business

Facilitate Meetings.

A facilitator, as the term indicates, helps a group to have a smoother and more productive meeting. It is a critical role within a group and ought not to be left to the chair.

The staff director should get formal training as a facilitator if at all possible. Until then, he or she should follow these rules:

1. Make clear that you cannot take sides, and invite the group to let you know any time they believe that you are taking sides. This does not mean that you cannot advocate a point of view from time to time, as long as you note that it is your personal opinion or you have the data to support your idea.
2. After a series of exchanges on an issue among team members, summarize what you have heard to the satisfaction of those who had the discussion. This neutral summary is especially important when issues become emotional.
3. When members start repeating themselves, actively listen to their statements. That is, paraphrase their statements to their satisfaction.
4. Use a flipchart to record key points during a discussion. This helps to keep the discussion focused and remind participants of ground that has already been covered. A second flipchart can be useful for noting other things that come up during discussion: tasks to be done, questions to be examined or researched, or points of agreement.
5. Record what is said *verbatim* on flipcharts. Do not interpret what you hear.
6. Avoid surprises. Learn to anticipate what people will say and do in a meeting by getting to know every member of the group. You do not know your group until you can pretty much predict what will happen in a policy group meeting.
7. Notice emotions. They give you a clue to where the energy of the group resides. Follow this tension thread, as it usually leads to people's anxiety about some risk they are taking. Help them find a way to reduce this risk.

Create Opportunities for Social Interaction.

The ideal for any group engaged in this type of effort is that members will develop loyalty to the group, respect and listen to each other, and trust one another enough to take risks together. The staff must provide them with the occasions to build those relationships.

Whenever possible, schedule meetings around mealtime. If resources do not permit a meal, encourage members to "brown bag" it: They bring in the food, the staff offers drinks and maybe a dessert. This builds in time—even if it is short—for chatting and sharing. Organize cocktails, soft drinks, and snacks after a late day meeting.

To accommodate the group's need for extended periods of discussion, schedule some meetings in a retreat-like setting, away from offices and phones. Be sure that some social activities are included in these retreat sessions: a cocktail hour, a picnic lunch, or a barbecue dinner—any event that allows people to interact in an informal way beyond their usual patterns.

One Policy Group's Experience:

"It took us two meetings to get together as a group. Nonsymposium participants had to catch up both informationally and socially. We struggled with a work plan outline. It appeared that we needed to know where we were headed and be confident that the work plan would get us there. Intermingling long-term rewards (e.g., developing a policy framework) with short-term outcomes (e.g., problem identification) proved to be important in keeping people's energy and momentum: in retrospect, the process of struggling was far more important than what we were struggling with. Increased ownership, interest, and commitment to work on system problems have resulted."

—Mark Carey, Director of Community Corrections, Dakota County, Minnesota; excerpt from the Intermediate Sanctions Project Newsletter

Collect and Analyze Data.

You cannot resolve many of the issues to be confronted by the policy group without some original research. Use a subcommittee of the policy group to help frame the questions and advise on the methodology.

Understand and Use a Planned-Change Process.

You will need a deliberate strategy for using data and analysis to accomplish the goals of the policy group. You will work more efficiently if you follow a planned-change process. Here are the essentials:

1. Describe the problem. This is best done in terms of a gap between what is desired (as portrayed in the mission statement and goals) and what currently exists.
2. Decide on the criteria that will guide the assessment and choice of options to solve the problem and meet the goal.
3. Brainstorm policy options (offering no criticism) and select the best 20 percent for further study.
4. Apply the criteria to the options and select the best.
5. Implement the options selected.
6. Monitor the outcome.
7. Redefine the problem.

Build in Some Accomplishments Early in the Process.

As you begin the tasks of the intermediate sanctions process, look for places where the group can identify problems and work on some immediate solutions. During the system-mapping work, for example, the group may come upon glitches, holdups, or gaps in case processing that affect other parts of the system. Let the group work on those glitches if it is so inclined. So much of the early part of the process is education and conversation; the group typically needs some concrete tasks to keep its energy level high.

Write Reports.

Both the process and the products of the group must be documented. Staff could be responsible for tracking progress through regular minutes of the group. Other products, such as draft legislation and policy or issue papers, may be produced either by staff or by policy team members. These reports should include an executive summary.

Supervise the Work.

Staff must have regular access to the chair of the policy group to assess the progress and direction of the work to be done.

Long-term Maintenance

Institutionalize the group.

If the policy group and the intermediate sanctions effort are effective, it may make sense to secure the group's status by making it a permanent, funded body within an established agency or larger body.

Making the team a part of a larger established body may be necessary for other reasons. It may be the only way to access staff support or other resources. Being formally designated as a committee or task force of an existing group may confer needed legitimacy or reduce potential conflict with other policymakers. Keeping major coordination efforts housed in the same agency has the added benefit of ensuring that they share direction and that their work is complementary.

Build meeting agendas.

Use all suggestions and comments from meetings and discussions to drive the agenda for the next meeting. The chair and staff should discuss the order of the agenda and the work to be done for each item.

Be sure to articulate how each item on the proposed agenda relates to the group's mission, goals, or objectives.

Address turnover in the team's membership.

The chair of the team should be ready to suggest replacements to the policy group whenever a team member leaves. It is important to get new members appointed as quickly as possible. The chair, other members, and staff should spend as much time as necessary with replacements to bring them up to speed and help them establish rapport with the rest of the group.

Maintain legitimacy in the criminal justice community.

If legitimacy is lost, the group must find out why and develop a list of options for restoring it. Losing legitimacy with any major group or person in the criminal justice community may not seem important at the time, but, if this occurs, the policy group can be severely undermined.

Repeat earlier activities.

To ensure that the group continues to work well, repeat some of the activities from early in the group's development:

• ***Review the group's mission, goals, and objectives.***

At least once a year, group members should prioritize their goals and objectives for the group on an individual, private basis. On the basis of these individual exercises, the group should discuss such issues as: Should we change what we are doing? How well have we done what we wanted to do? Do we have the resources to do what we are doing now? If we want to do more, where will we get the resources?

• ***Repeat the individual interviews with group members at least annually.***

These interviews may reveal problems that lie beneath the surface. Use the list

of questions from the first year, adding questions that seem appropriate to what the group is engaged in at the time.

• ***Repeat the team-building exercise.***

Use the interview results in the same way. This can function as a group "checkup" or report card to itself.

• ***Redo the environmental scan at least annually.***

Remain alert to conflicts and misunderstandings within the group.

Groups experience predictable issues and stages. Some basic group theory follows:

Groups generally develop well and do good work after they have worked out three major issues:

Inclusion. Who is included? Who is excluded? Who wants to be included who is not now being included? (Clue: "I wasn't at that meeting!")

Control. Who is in control? Who wants to be controlled? Who wants to control? (Clue: "Why wasn't I asked about that?")

Liking. Who likes whom? (Clue: "I thought we were friends!")

Groups normally progress through four stages, which are similar to those of a child growing to adulthood. Expect each of these stages to occur in any group process. If they do not, talk to people about why they think they are not occurring. It may be that you have simply missed them. If this is not the case, determine what needs to be done to help the group grow. The four stages are:

Forming. This is the infancy of the group. Confusion and anxiety abound as different styles and needs become evident. Depending on tolerance for ambiguity, this first stage may be pleasant and smooth or intense and frustrating.

Storming. This is adolescence.

Regardless of how clear the task or the structure of the group, group members will generally attack leadership, either directly or through acts of nonsupport. To get past this stage, members must stop reacting and start initiating, taking risks of their own for the good of the group as a whole.

Norming and Performing. This is adulthood. The group pulls together into a coherent whole, not simply a collection of individuals. Now the group is ready to work toward its goals. Solving a problem or reaching consensus provides a powerful motivator to continue to work together.

Transforming. When the purpose of the group has been achieved, it is time either for transformation into a new structure or for the group to disband. Failure of the group to recognize that the life of the current group has come to an end will lead to a hollow, unfinished feeling.

Produce regular reports.

Regular papers, legislation, and reports must be a product of the policy group. Each document must be thoroughly reviewed and approved by the policy group. Minority reports may be useful if consensus is not possible.

Conclusion

One of the most difficult aspects of developing a principled approach to intermediate sanctions policy is that there is typically no forum for addressing sentencing issues on a systemwide basis. The formation of a policy group as described in this chapter provides such a forum, as well as a vehicle for change. As such, it is one of the most critical elements in developing intermediate sanctions policy. It is hoped that the information, suggestions, and exercises provided in this chapter will be of assistance as individual jurisdictions face the challenge of developing and using intermediate sanctions.

Building a Policy Team

Staff posts around the meeting room a single sheet of newsprint for each of the first eight questions listed under the subheading of this chapter, "Contact each potential member." Each sheet lists all of the responses to that question from the members of the group (unattributed, of course). You are providing the group with its first "picture" of itself.

Use each set of responses for the discussion of a particular topic. For example, discuss the list of "hopes for this project" as the basis of a mission statement. The list of fears becomes the set of risks that the group collectively faces. How might the project ameliorate those risks in the way that it conducts its business?

Begin discussion of each topic with a request for additions. Consider the individual items. Note those that are common to most or all respondents. Is there general agreement, items that need to be added, or are you identifying areas that will need further work to achieve consensus?

At the end of this exercise you should have a rough outline of the mission statement and goals, some operating procedures and norms around the conduct of business and the role of staff, and the beginning of a work plan.

After the meeting, send these products, in rough outline and in a more polished form, to all team members for their response.

Conducting an Environmental Scan

The purpose of an environmental scan is to be sure that the policy team does not overlook major issues of influence as it sets about its work. The compilation of all of the team members' perspectives creates a rich and detailed picture of the environment under which the team is operating.

The environmental scan seeks the major "ideas in good currency" that dominate criminal justice policy. Ideas in good currency are those concepts or ideas that influence current philosophy, practice, and resource allocation. Examples include the interest in science and math after *Sputnik* in the late 1950s; civil rights in the 1960s; energy in the 1970s; and reduced regulation in the 1980s.

Although there are both major and minor ideas in good currency, there are generally only 10 to 12 major ideas at any given time. However, there can be several minor ideas in good currency within each major one. When energy conservation was big in the late 1970s, there were a lot of minor ideas in good currency, such as windmills, solar collectors, chemical storage of energy, and oil shale.

Ideas in good currency are generally classified as latent, current, peaked, or institutionalized.

- **Latent** ideas are just beginning to be noticed and have not yet started to drive resources.
- **Current** ideas are those that are currently driving resources.
- **Peaked** ideas are those that probably will not be the cause of any incremental increases in resources.
- **Institutionalized** ideas are those that have stabilized with a given resource base.

To conduct your own environmental scan:

1. First, brainstorm those ideas in good currency that relate to the criminal justice system and that may have an impact on what you are doing.
2. Next, select 10 to 12 items on the list to represent your list of major ideas in good currency. Consider the remainder of your list as minor ideas in good currency, and find places for them under the list of major ideas.
3. Review the list of major ideas and identify each as a latent, current, peaked, or institutionalized idea.
4. Finally, prioritize the major ideas. Using this priority listing, select those ideas that the team wants to incorporate into its plan for action.

Conducting a Power Analysis

1. The team begins by brainstorming a list of all those people who the team members anticipate will either support or oppose its work. The list should encompass specific individuals as well as groups. Some people may be listed both individually and as a member of a group, in those cases in which the individual also acts outside the context of their group. (Keep in mind the ground rules: No negative comments while the names go up on the list!)
2. Next, consolidate the list by coming to a consensus on the top 20 percent—those with the most influence on your work. Review this list and select an appropriate number of people to serve on your policy board. You can end the power analysis here if you choose. But to more clearly understand why you may want certain people on the board, continue on with the next step.
3. Arrange all of the names on your original list on a chart like the one below. It is recommended that this be done using a flipchart or a large white board.

Names	Power (0-3)	Saliency (0-3)	Position (-3 to +3)	Total*
Joan L.	3	1	-3	-9*
Defense Attorneys	1	3	2	6*
Jose H.	0	3	3	0*
Etc.				
Total Score	*****	*****	*****	-3*

* The total is calculated by multiplying across the columns.

Calculating the Power Analysis Scores

Determine the power score, saliency score, position score, and total score for each person or group listed.

The power score is arrived at by determining the group consensus about how powerful this person is, without regard to his or her position on your work. Both formal and informal power should be taken into consideration.

The saliency score is arrived at by determining the group consensus on the relative importance of this project in relation to the person's other work. This helps you gauge whether the person is too busy with other things to be of much help or hindrance to your efforts.

The position score reflects the group's assessment of the person's position on intermediate sanctions (i.e., strongly in favor [+3], strongly opposed [-3]).

Interpreting the Power Analysis Scores

To calculate total scores, multiply the power score by the saliency score by the position score. A "0" score in any box results in a total score of "0." These individuals probably should not be considered for membership on the policy group.

Those with high negative scores (-18 and above) must be considered for membership on the policy team. It is risky not to include these people on the team; if you do not include them, you must consider including either someone with significant influence over the person or group or someone who can beat them in a fight.

Those with high positive scores (+18 and above) should also be considered for membership on the policy team.

Those with average scores (either positive or negative scores in the 8-12 range) should be considered as well, but a different strategy should be considered for each. Use the participation on the team of those with average negative scores to educate them. Including people with an average positive score will offer you the opportunity to strengthen their overall score by increasing their saliency score (i.e., you can get them excited about the project).

If your power analysis results in an overall negative total score, you can be confident that you will have a lot of work to do on marketing your project. Use the individual scores as a guide to direct your efforts. On the other hand, an overall positive total score on the power analysis tells you that the team is starting off with a lead. Be careful to keep that lead and not lose ground as you proceed!

Defining a Continuum of Sanctions: Some Research and Policy Development Implications

Alan T. Harland*

Introduction *The issues, concepts, and analyses described in this handbook are, with one exception, neither new nor unique. They are, rather, presented together as a process in a way that we hope is new and more helpful.*

The exception is this chapter: The concept of a continuum of sanctions has, until now, been explored in only a limited fashion. Jurisdictions and agencies have experimented with the notion of continuums of punitiveness, of control, or of services. In this project, we have tried to explore the notion of a continuum of sanctions that is multidimensional, that captures the intensity as well as the purpose of sanctions, and that addresses the multiplicity of purposes that any range of intermediate sanctions embodies.

In this chapter, Alan Harland has taken those discussions and explorations to develop a cogent new way to understand the whole concept of intermediate sanctions.

Pressure to Expand the Range of Intermediate Sanctions

In an era in which alarm over public safety and the fiscal constraints upon government's capacity to respond both seem to be worsening, the criminal justice system's heavy reliance on the polar extremes of routine probation and traditional forms of incarceration has come under extensive scrutiny and criticism. Fears about inadequate control and punishment of high-risk probationers on the one hand and concern about the ineffectiveness, unconstitutional crowding, and soaring construction and maintenance costs of penal institutions on the other have prompted widespread calls for more extensive development and use of mid-range, "intermediate" sanctions. This is usually understood to mean doing something between sentencing or revoking offenders to prison or jail and releasing them into the community under negligible probationary constraints.

Advocacy for expanding the range of intermediate sanctions has emerged from a broad alliance of critics from all shades of the professional, political, and academic spectrum. It has been met by rapid proliferation of a "new generation of alternatives," such as boot camps, day treatment and day-reporting centers,

Increasing the range of choices expands the prospect of improving sanctioning practices, but it also makes the task of deciding on the "right" response to criminal conduct an even more complex and challenging proposition than in the past.

intensive supervision probation and parole programs, day fines, and home arrest/electronic monitoring, as well as by expansion and consolidation of earlier approaches, such as community service, restitution, and traditional therapeutic and other treatment interventions.

Need for Structured Expansion

Although expanding options is a vital first step toward the rational assessment and allocation of sanctions, a central premise of much recent discussion is that

expansion alone is not enough, and, indeed, that it may ultimately be counterproductive for jurisdictions simply to generate a multitude of sentencing and revocation options. Attention is increasingly being drawn to the danger that, without clear guidance to structure discretion as to how and for whom the variety of sanctions might best be applied, such expansion may make the decisionmaker's task even more difficult and confusing, leaving greater chance for idiosyncratic and otherwise inappropriate results. Increasing the range of choices expands the prospect of improving sanctioning practices, but it also makes the task of deciding on the "right" response to criminal conduct an even more complex and challenging proposition than in the past.

Expansion of options without clear definition and a corresponding set of principles and standards to guide in their selection, application, and evaluation raises the threat of faddish adoption and

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unstructured discretionary use (and abuse) of intermediate sanctions. This, in turn, escalates the risk of applying the sanctions to inappropriate target populations and the corollary dangers of weakening their public safety impact and threatening their integrity and credibility through net-widening, cost overruns, breaches of desert principles, inequity, and undue disparity. These dangers are of more concern, as the types of intermediate sanctions being introduced become more and more onerous in striving to approximate the punitiveness and control associated with the terms of incarceration with which they are being designed to compete.

The challenge, therefore, is not simply to meet a need for more sanctioning options, but to develop options that will have clear relevance and credibility in the eyes of the practitioners and policymakers on whose understanding and support their long-term survival and success depend. This suggests a need to expand options in a comprehensive, principled, and highly goal-centered way, being wary of repeating the frustrations and failures so widely documented in earlier alternatives efforts. This requires an awareness and high level of systematic attention to well-conceived and articulated development, implementation, monitoring, and evaluation strategies. In short, we must approach the task as an information-driven process of planned change, rather than the crisis-oriented, bandage fashion in which sanctioning options have so often and so unsuccessfully been introduced in the past.

Emergence of the Concept of a Continuum of Sanctions

Recognition of the potential dangers of haphazard development and use of an increasingly diverse array of intermediate sanctions has led to calls for development efforts that go beyond simply creating more options. Emphasis is placed instead upon the far more complex undertaking of establishing a **continuum of sanctions**. The importance of considering sentencing and revocation decisions in

terms of a continuum of choices is a theme that has been emphasized recently in both the professional and academic literature on sentencing and intermediate sanctions, and it has attracted the highest levels of political attention. As is the case with so many other popular concepts in the criminal justice business, the ease with which an idea slips into common parlance bears no relation to a consensus on its essential meaning and significance. The expression "continuum of sanctions" is no exception: it is frequently used and misunderstood to mean simply a list or

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menu of criminal penalties or, more typically, correctional programs, such as the boot camps and others already mentioned.

The balance of this discussion will be concerned with the important difference between developing a wide-ranging **list or menu** of options and the far more difficult but potentially more vital task of constructing and applying a **continuum of sanctions**. More specifically, the focus here will be on what the idea of a continuum of sanctions means, and why the concept is potentially important and helpful to those interested in improving sentencing and correctional policy and practice, especially to those faced with difficult choices about recommending or imposing sanctions in an individual case or adopting or implementing them at a program or policy level.

Defining Basic Terms

The dictionary definition of "sanctions" is: "Coercive measures or interventions taken to enforce societal standards." The dictionary definition of the term "continuum" identifies its basic characteristic as an ordering or grading on the basis of some **fundamental common feature**. Combining the two, the result is as follows:

"A continuum of sanctions is a variety of coercive measures taken to enforce societal standards, ordered on the basis of a fundamental common feature."

An obvious aim behind the grading and scaling of sanctions, implicit in the continuum idea of providing some sense of order or sequence for their use, is to make it easier for judges and others to compare and make more rational decisions about the different options. Clarity on the basis for ordering sanctions will make it more likely that those selected will achieve expected goals and will facilitate decisions about interchangeability or equivalence of intermediate sanctions with terms of incarceration and with each other. Understanding the continuum concept, therefore, suggests the need for clarification in at least three areas.

- First, what is the precise nature and scope of the coercive measures embraced by the term "sanctions"?
- Second, by which essential common features (dimensions) might judges and other key decisionmakers find it most helpful to order the various sanctions on the list?
- Third, what techniques or methods might best be employed to scale and grade sanctions according to each of the dimensions identified?

The first question addresses the range and complexity of sanctioning options available. The other two questions, one conceptual and one methodological, further frame the tasks required to move beyond an undifferentiated list of sanctions to a continuum.

Clarifying Items on the Sanctions Menu

Figure 6-1 summarizes the typical range of coercive measures or intervention possibilities in most jurisdictions and illustrates the sizable number of alternatives that may compete for the decisionmaker's attention in any given case. Fleshed out to reflect the actual legal and practical circumstances of an individual jurisdiction, this kind of list could serve as a checklist in a bench book for judges, for probation presentence investigators preparing recommendations, or for defense-based advocates preparing client-specific sentencing plans. It could also stand as a summary table of contents for the more detailed descriptive accounts of sentencing options that such a reference work would provide.

An essential starting point in the development of a continuum of sanctions and the pursuit of a more rational approach to their use is that the options outlined in Figure 6-1 be defined and understood as thoroughly as possible. This suggests the need for extended discussion among key decisionmakers, aimed at establishing a shared vocabulary and thorough baseline understanding of precisely what options are in use or potentially available and exactly what each one entails. Before it is possible to move from an unstructured array to a more organized continuum of sequenced and scaled alternatives, we must first develop a detailed grasp of what is on the current menu. Judges and legislators are often woefully unfamiliar with the specifics of many of the options available in their own courts and communities. By fully identifying and defining the range of options available to sentencing authorities, judgments can be made about whether and to what extent they are equivalent or interchangeable in any significant way, and how likely they are to satisfy any or all of the major goals of the decisionmakers involved. The definitional task requires recognizing that:

- Intermediate sanctions can be interpreted to include a far broader range of choices than the more narrow term

"intermediate punishments," and the difference is of far more than semantic importance. (For a more detailed discussion of this issue, see *Sanctions vs. Punishments*, following this chapter.)

- Both sanctions and punishments can usefully be distinguished from the programs (e.g., boot camps) of which they are a component and the agencies (e.g., probation) that administer them. (For a more detailed discussion of this issue, see *Programs vs. Their Component Sanctions*, following this chapter.)

Moving from a List to a Continuum: Goals of Sanctioning Authorities

As they are faced with a growing number of choices, the need for clear information and guidance about the precise nature of the various options and the likelihood of their satisfying different sentencing goals becomes an obvious priority for both policy-level and case-level decisionmakers. Clarity of purposes/goals is an obvious precursor to any meaningful assessment, comparison, and evaluation of the strengths and weaknesses of different sanctions. Selection and application of any of the listed options will be driven by a belief that it is reasonably compatible with the decisionmaker's dominant values and goals.

Consequently, in addition to being well informed about the operational aspects of sanctions available to them, practitioners and policymakers must also be clear about the essential fears and concerns to which their decisions about sanctioning choices are intended to respond. If one believes, along with Morris and Tonry (Norval Morris and Michael Tonry, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System*, Oxford: Oxford University Press, 1990), that sentences can be devised that are equivalent to imprisonment (or to each other), the question becomes, on what measures of equivalence or interchangeability

might the various sanctioning options best be scaled and graded to help decisionmakers (such as judges) choose rationally among and between them?

Surprisingly little attention has been paid to the issue of scaling criminal penalties in such a way as to aid decisionmakers in judging how well they are likely to work at all and in relation to each other. Recent efforts to respond to the need for guidance with respect to intermediate sanctions have focused heavily on ways to grade them in terms of their weight or value on a scale of severity or onerousness. Among the most frequently applied attempts along these lines have been the efforts of day fines advocates to assign "units of punishment" to offenses rather than fixing dollar amounts, so that offenders of different financial means would be assessed the same number of punishment units for similar offenses but would satisfy them in terms of their individual payment abilities (each might be required, for example, to pay a day's income for each unit assessed).

Some have challenged the notion that scaling and fixing exchange rates for different sanctions to assure equality of severity or suffering is of primary importance. It has been suggested that sanctions might be more usefully and realistically scaled, and equivalencies gauged, in terms of their value (or perceived value) in satisfying broader, more functional system goals, rather than on their ability to satisfy purely retributive demands for assuring that comparable levels of pain be inflicted on offenders committing similar offenses. The decisionmakers instead might call for an ordering that allows ready comparison of the different options in Figure 6-1, not only in terms of how much pain and suffering each represents, but also on the basis of their perceived or demonstrated value as techniques for controlling the rate of crime (value as a general deterrent measure) or recidivism (value as a rehabilitative, incapacitative, or specific deterrent measure).

Figure 6-1

Summary Listing of Coercive Measures and Sanctioning Options

<p>Warning Measures [Notice of consequences of subsequent wrongdoing]</p>	<p>Admonishment/cautioning [administrative; judicial] Suspended execution or imposition of sentence</p>	
<p>Injunctive Measures [Banning legal conduct]</p>	<p>Travel [e.g., from jurisdiction; to specific criminogenic spots] Association [e.g., with other offenders] Driving Possession of weapons Use of alcohol Professional activity [e.g., disbarment]</p>	
<p>Economic Measures</p>	<p>Restitution Costs Fees Forfeitures Support payments Fines [standard; day fines]</p>	
<p>Work-related Measures</p>	<p>Community service [individual placement; work crew] Paid employment requirements</p>	
<p>Education-related Measures</p>	<p>Academic [e.g., basic literacy, GED] Vocational training Life skills training</p>	
<p>Physical and Mental Health Treatment Measures</p>	<p>Psychological/psychiatric Chemical [e.g., methadone; psychoactive drugs] Surgical [e.g., acupuncture drug treatment]</p>	
<p>Physical Confinement Measures</p>	<p>Partial or intermittent confinement</p>	<p>Home curfew Day treatment center Halfway house Restitution center Weekend detention facility/jail Outpatient treatment facility [e.g., drug/mental health]</p>
<p></p>	<p>Full/continuous confinement</p>	<p>Full home/house arrest Mental hospital Other residential treatment facility [e.g., drug/alcohol] Boot camp Detention facility Jail Prison</p>
<p>Monitoring/ Compliance Measures [May be attached to all other sanctions]</p>	<p>Required of the offender</p>	<p>Mail reporting Electronic monitoring [telephone check-in; active electronic monitoring device] Face-to-face reporting Urine analysis [random; routine]</p>
<p></p>	<p>Required of the monitoring agent</p>	<p>Criminal records checks Sentence compliance checks [e.g., on payment of monetary sanctions; attendance/performance at treatment, work, or educational sites] Third-party checks [family, employer, surety, service/treatment provider; via mail, telephone, in person] Direct surveillance/observation [random/routine visits and possibly search; at home, work, institution, or elsewhere] Electronic monitoring [regular phone checks and/or passive monitoring device—currently used with home curfew or house arrest, but could track movement more widely as technology develops]</p>

In addition to traditional retributive and utilitarian preventive aims, scaling and comparison could also proceed along a restorative dimension, based on the value of different sanctions in terms of their ability to address goals such as reparation to the victim, community, or society. The term "accountability"—in the sense of holding offenders accountable for their crimes—is also used widely, especially in juvenile justice restitution circles, as if it were an independent goal of criminal sanctions. In my view, this term is often only a code word for retribution or a rephrasing of the desire to make offenders "pay" for their crimes, which can mean either pay in the sense of suffer (retribution) or pay in the sense of compensate (reparation). In either case, conceptual clarity and intellectual integrity are better served by using the more specific underlying terms.

As well as comparing sanctions in terms of their value in satisfying the primary goals of sentencing (restorative, preventive, and retributive), other dimensions of a continuum of sanctions might involve scaling and grading in terms of various limiting principles or goals at sentencing. At the program or policy level, for example, decisionmakers from budget and oversight agencies may want to see sanctions graded and assessed according to the economic costs that each represents. A further possibility is to grade them in terms of their political implications, including their value on a scale of public satisfaction or approval by different criminal justice professionals, victims groups, or other important constituencies.

In sum, the various intervention options might be scaled according to their relative value in relation to a number of important goals of sanctioning authorities. A simplified graphic illustration of the type of decision tool to which such an undertaking might lead is presented in

Figure 6-2. Collectively, the resulting ratings would inform judges and other decisionmakers involved in the sanctioning process as to how well each option is considered to "fit" or to "work" on the different dimensions or measures of effectiveness, efficiency, and fairness represented by the goals being measured. Assuming that a decisionmaking tool of this general nature would be of assistance to guide and structure discretion in the comparison and use of criminal sanctions, it remains to be considered how feasible it would be to construct.

As well as comparing sanctions in terms of their value in satisfying the primary goals of sentencing (restorative, preventive, and retributive), other dimensions of a continuum of sanctions might involve scaling and grading in terms of various limiting principles or goals at sentencing.

The Mechanics of Scaling and Grading Sanctions

Methodological and statistical techniques have been developed for classifying and multidimensional scaling in fields as far removed from criminal justice as numerical taxonomy in biology and zoology. These techniques have been applied by economists and marketing researchers investigating consumer reaction to a wide variety of product classes. They have also been used in criminal justice, although the emphasis has been on attempts to bring numerical precision to assessments of crime seriousness. Efforts to create "seriousness-index scores" for various

offenses have demonstrated the complexity of the task and the multidimensionality of the concept, varying as it does according to the extent of harm sustained, characteristics of the victim and the offender, and situational factors such as, for example, whether a burglary was committed by day or night, in occupied or empty premises, by an armed or unarmed person, and so on.

The problem of fixing units of value to different sanctions, whether in terms of severity or some other scale, is no less challenging an undertaking than grading the seriousness of offenses. Opinions and facts about the relative merit, equivalence, or interchangeability of different sanctions on almost any of the dimensions in Figure 6-2 will likely vary depending upon the rater's understanding of the precise nature (quality of the sanction) and the duration and intensity (quantity of sanction) of the options under consideration. Raters may also be influenced by different aspects of the case as a whole, including judgments about degrees of culpability and the probability (risk) and consequences (stakes) of subsequent offending, as indicated by the characteristics of the offense and the offender being targeted to receive the sanction. If we are considering, for example, how many hours of community service work to assign or how high a fine might be in order to be equivalent to six months of incarceration, the answer is likely to be somewhat different depending on whether the time is to be served in an overcrowded, physically inadequate, and understaffed jail or in a state-of-the-art correctional facility. Likewise, the calculation might vary depending upon whether the type of community service to be performed is of the individual placement or the supervised work crew variety, or if the fine is assessed in traditional form or on a day fine basis.

Figure 6-2

Illustration of Scaling Possibilities for Criminal Sanctions: Type of Sanction, by Scaling Dimensions and Units of Measurement

Type of Sanction	Scaling Dimensions						
	Retributive Severity	Crime Reduction ^a	Recidivism Reduction ^b	Reparation	Economic Cost	Public Satisfaction	Etc.
Sanction A Sanction B Sanction C Sanction D Etc.	Value in terms of pain and suffering ^c	Value in terms of impact on crime rate	Value in terms of impact on reoffense rate	Value in terms of compensating aggrieved parties ^d	Value in terms of cost efficiency	Value in terms of public approval ratings	Etc.

^a General deterrence effects

^b Specific deterrence, incapacitation, rehabilitation effects

^c Or in terms of units of onerosness, intrusiveness, or deprivation of autonomy/liberty

^d Direct victims and possibly indirectly affected individuals, groups, or entities [e.g., family members, insurers, taxpayers, community, society]

Finally, assuming numerical scores could be inserted in the cells for every sanction and scaling dimension in Figure 6-2, selection and interchangeability decisions must further be guided by policies and rules determining the relative weight and priority to be given to each dimension when conflicts (e.g., between punishment and treatment) arise. Assuming adequate specification and description of the options, the next question that arises is: given such a range of choices, is there a consistent, principled order or sequence in which the various measures should be factored into the construction of an appropriate sanctioning response? In any given case or class of cases, how does the sanctioning decisionmaker know where to start the selection process, where to stop, and how to resolve conflicts that may arise between competing possibilities on the list? All things being equal, for example, should a comprehensive sanctioning scheme be primarily concerned with compensating victims and other interests of restorative justice or must

those goals be subordinate to the public safety concerns of prevention advocates? Where does either rank in relation to retributive demands that offenders are made to suffer some appropriate degree of pain and suffering for their crimes, regardless of considerations of social utility? And how should costs (direct costs and opportunity costs) and public satisfaction be factored into the final analysis?

Conclusion

The research and policy development agenda is a substantial one before the notion of a continuum of sanctions can be translated into a practical application for guiding decisions about the development of sanctioning options. The task is essential, however, if we are to reduce a potentially bewildering mass of choices to an organized, meaningful, and readily comparable format within which judges and others can have some clear sense of expected outcomes and of how different intermediate sanctions fit in relation to

imprisonment and to each other. The importance of the task is emphasized by the realization that we are almost completely lacking in information to fill in any of the cells in Figure 6-2 with any degree of confidence. Yet judges and other sanctioning authorities are obviously doing such scaling and grading implicitly, at least on the dimensions they consider salient, when they make sanctioning decisions.

The development of a continuum of sanctions is a conceptually and methodologically complex undertaking. It is an easy expression to use but a difficult one to understand and an even more difficult one to operationalize. Methodologists can supply the skills and tools for the job, but practitioners and policymakers, who are the key decisionmakers in sentencing, must supply the raw materials. They must specify clearly and thoroughly the sanctioning options to be scaled and, most importantly, the dimensions or goals on which the grading and sequencing of sanctions should be based.

Sanctions vs. Punishments

Alan T. Harland

In their book, *Between Prison and Probation: Intermediate Punishments in a Rational Sentencing System* (Norval Morris and Michael Tonry, Oxford: Oxford University Press, 1990), Morris and Tonry ask the question, why "punishments" and not "sanctions"? Skeptics might answer that the former is more politically fashionable, as it appeals to the sound-tough, law-and-order ideology prevailing in much of the U. S. criminal justice establishment today. Former Attorney General Richard Thornburgh, for example, has lamented the gap between simple probation and prison, saying that we need to fill it with "intermediate punishments." Similar language is found in a recently enacted "Intermediate Punishment" law in Pennsylvania (*Intermediate Punishments Act*, 1991).

Morris and Tonry defend their own preference as almost a question of taste rather than analytic substance, but they offer an analytic defense of their choice. They argue that the use of the term "intermediate punishments" appears to be necessary from a marketing perspective to counter the popular view of prison being punishment and all other responses being alternatives to punishment rather than alternative forms of it:

One of the reasons why American criminal justice systems have failed to develop a sufficient range of criminal sanctions to apply to convicted offenders is that the dialogue is often cast in the pattern of punishment or not, with prison being punishment and other sanctions being seen as treatment or, in the minds of most, "letting off." (Morris and Tonry 1990:5).

If it is true, however, that a "punishment or not" mentality has impeded the development of responses to crime between the extremes of prison and probation, there is a danger that continuing to cast the issue exclusively in punishment terms, albeit now as "intermediate punishments or not," may compound and perpetuate such thinking and resistance to change among policymakers and the public. A recent Justice Department report (*A Survey of Intermediate Sanctions*, Department of Justice, Office of Justice Programs, September 1990, page 3) drew this conclusion in expressing a preference for the term "intermediate sanctions," because "[o]ne advantage to not using the terminology 'intermediate punishment' is that 'punishment' is commonly equated with a single rationale for applying criminal sanctions—the rationale of 'retribution' or 'just deserts'—to the neglect of other traditional goals...." The use of this terminology may be especially of concern insofar as it may undermine the legitimacy of responses imposed for treatment and other preventive ends and trivialize the role of conciliatory, compensatory, and other actual or quasi-civil options, such as restitution, forfeiture, costs, and fees in a truly comprehensive sanctioning scheme that candidly includes alternatives to punishment as well as simply different ways of punishing.*

Morris and Tonry, for example, feel that financial penalties such as those just mentioned "can be disposed of swiftly" as merely "adjuncts to rational sentences, not sentences in themselves; additions to, not substitutes for, other punishments...." As the authors point out, these penalties are

not punishments in the sense that they have defined the term. The penalties can, however, be significantly onerous sanctions that for some (many?) offenses might be adequate consequences of conviction in their own right, as in the case, for example, of restitution as a sole sanction, a disposition that has received considerable favorable attention in juvenile courts.

In short, the term "sanction" is far broader than punishment. Arguably, it may extend, for example, to include even coercive pretrial measures, such as bail, curfew, and electronic monitoring to prevent flight and/or reoffending prior to case disposition. In contrast, the notion of pretrial punishment is far more clearly untenable, at least in theory. (In fact, the practice of sentencing offenders to "time served" in pretrial detention may be one of the most frequently used intermediate punishments of all.) In addition, the term "sanctions" encompasses a broad range of coercive interventions of a civil, quasi-civil, and criminal nature that can include but need not be limited to the purposeful threat or infliction of painful consequences that is the essential defining element behind retributive and deterrent responses to criminal conduct. As a result, it allows the less ideological decisionmaker far greater creativity and choice than the more limited and emotionally charged term it subsumes.

*Responding to criminal behavior and its consequences need not, of course, be limited to sanctions. Besides responding with coercive measures, a wide variety of empowering, enabling, facilitative, exhortative, and undoubtedly other ways of dealing with offenders can be imagined.

Programs vs. Their Component Sanctions

Alan T. Harland

A second way to be clearer about the range of sanctioning options from which decisionmakers might select is to distinguish between individual or specific sanctioning measures and the programs or institutions that exist to administer them (or, more usually, some combination of them). It will be noted, for example, that the sanctions listed in Figure 6-1 do not include the term "probation," nor its equally ambiguous extension "intensive supervision probation," which has become so diverse that it has almost ceased to have useful meaning. All of the options listed in Figure 6-1 may vary in intensity and in the degree to which individuals and agencies from the private or public sector, including probation, are appropriately involved in their implementation and enforcement. Indeed, one of the advantages of the type of sanction/program breakdown in Figure 6-1 is that it allows decisionmakers to consider separately precisely which supervision and enforcement agents (police, probation, parole, private) might be most appropriate (e.g., in terms of professional training, mind set, costs, and so on) for each of the specific sanctions that might be imposed. Enlisting the involvement of community policing units in the task of carrying out intensive surveillance conditions of community release, for example, may make more sense in certain circumstances than leaving it up to probation or parole agents.

From the foregoing perspective, probation is perhaps more meaningfully considered as only one agency among several that can be made responsible for the administration of many of the sanctions listed rather than as a sanction itself. Similarly, practices such as "bench," "unsupervised," or "administrative" probation are in most instances tantamount to suspended sentences for offenders who neither merit nor get any meaningful attention by probation officers. As such they undoubtedly contribute to the widespread public and professional image of probation as a slap on the wrist. A better practice might be simply to sentence such cases to the restitution, fines, costs, and other conditions that are often imposed, without the pretense of probation supervision at all. We talk loosely of offenders being "given probation," when what we mean is that they have been sentenced to one or more of the specific sanctions in Figure 6-1, to be enforced under the supervision of the probation department. We do not say that offenders sent to prison or other institutions or programs administered by corrections departments have been "given corrections." It is perhaps this masking of actual sanctions behind the blanket of probation that leads to such widespread public and professional perceptions that probation does not mean anything and that "getting probation" is tantamount to "getting off." Focusing on the specific sanctions may encourage legislators and judges to stop using probation departments unreflectively as dumping grounds for almost every-

one who is not incarcerated. It may also provide some relief to besieged probation administrators, insofar as it allows legitimate criticism of probation as an agency (management weaknesses, staff deficiencies, etc.) to be separated from the more prevalent and unfair attacks that are really criticisms of the sanctions that probation agencies are required to implement and enforce.

In a similar vein, we hear and speak often about the virtues and deficiencies of boot camps, day-treatment centers, community service programs, intensive supervision, and so on as if each one denoted some self-evident and agreed upon identifying characteristic. The reality, of course, is that some boot camps look more like treatment programs than many treatment centers, and any two of the other options listed are likely to be more different than alike from one jurisdiction to another on critical dimensions such as target populations, length of participation, and in the richness and mix of service or surveillance requirements and resources involved. There are a number of options with particular potential for confusion, insofar as their labels appear to suggest reliance upon a unitary or at least relatively singular sanction and program purpose, whereas the reality is that they are much more multifaceted and, therefore, much more difficult to categorize and evaluate. Some community service programs, for example, rely on

individualized assignments, such as working in community hospitals or soup kitchens, in which responsibility for onsite supervision of the offender may be negligible or in the hands of the employer; others involve far more public shaming types of labor, perhaps removing garbage from the highway in the heat of summer or the cold of winter, under the watchful (and expensive) eye of a probation or parole officer, sheriff, or other chain-gang-style supervisor. Obviously, assessments of the cost and punitive or preventive value of such a sanction for various offender groups may differ greatly depending on which type of community service is involved.

Prominent in the more variably defined sanctioning programs are residential restitution centers, house arrest and curfew programs (incarceration at the offender's own expense), electronic monitoring programs, and boot camps, the latest fad in corrections. Restitution centers, such as those in Texas and Oregon, may have the payment of restitution as an important program element, but so do many boot camps, half-way houses, and centers for work-release and day-reporting. Conversely, restitution centers may also share many of the treatment, community service, and fee requirements of the others. Similarly, in what are generically referred to as house arrest or electronic monitoring programs in some jurisdictions, the labels usually greatly belie the diversity of other program elements involved, such as mandatory work, restitution, and treatment

requirements, which make such programs virtually indistinguishable from day-treatment and intensive supervision probation programs in other places, many of which also rely heavily on curfew and electronic monitoring.

Possibly the greatest potential for ambiguity and deceptive labeling among currently popular sanctioning programs (with all the eventual dangers of backlash for long-term survival that false advertising inevitably presents.) is in the use of the term "boot camp." On the one hand, it is a political favorite because of the get-tough appeal and punitive aura of military-style boot camps, with rigorous regimes and austere conditions of order and discipline to satisfy retributive emotions and possibly serve as a deterrent. At the same time, more treatment-oriented correctional practitioners and liberal reform proponents find themselves falling in line with the physical-drill and shaved-head routines as a small price perhaps for the phenomenal political appeal and corresponding glut of funding they have engendered. The military-toughness image frees politicians to give the money. The money frees designers and administrators of the actual programs to incorporate a rich assortment of unabashedly rehabilitative resources for which funding might otherwise have been far more difficult if not impossible to secure, such as life-skills improvement, self-esteem enhancement, educational and vocational training, confidence building, nutritional and personal hygiene improvement, and substance abuse treatment.

Identifying and separating relatively discrete sanctions, such as a fine, community service, or confinement, from

more amorphous programs or institutions such as boot camps or day-treatment centers, does not automatically eliminate confusion or assure a shared understanding of the meaning of the terms being used. Even something as seemingly simple as a fine, for example, is not so straightforward, for purposes of comparison, if one party to the debate is talking about day-fines while the other is thinking about traditional fining practices. The program vs. discrete measure distinction is a worthwhile effort, however, because the task of assessing an option's likely congruence (fit) with the decision-maker's dominant goal(s) and comparing it to other alternatives will be even more complex and susceptible to ambiguity and misunderstanding when the option under consideration is an institution or program in which an amalgam of sanctioning measures is involved. Consequently, the risk is higher that offenders may be subjected to all-or-nothing involvement in the standard regimes of, for example, a day treatment center or boot camp, when perhaps only one or more of the program elements is really warranted or desired. Where judges are induced to make decisions about sanctioning options in terms of "kitchen-sink" or "black-box" programs, rather than on the basis of rigorous analysis of what might be the most parsimonious and otherwise appropriate combination of specific intervention measures of which they are comprised, the resulting potential is great for overprogramming, is wasteful, and possibly a counterproductive application of sanctioning resources.

Defining a Continuum of Sanctions

I. What Is a Continuum of Sanctions?

- The definition of the term “sanctions” is: “Coercive measures or interventions taken to enforce societal standards.”
- The definition of the term “continuum” identifies its basic characteristic as an ordering or grading on the basis of some **fundamental common feature**.
- Therefore, combining the two results in the following definition:
A continuum of sanctions is a variety of coercive measures taken to enforce societal standards, ordered on the basis of a fundamental common feature.

II. What Might Those Fundamental Common Features Be?

- A.** Sanctions may be scaled or graded on a continuum. But on what basis will this be done? Some continuum options might include these goals of sentencing:
- retribution;
 - prevention; or
 - restoration.
- B.** A continuum may be graded based upon goals or considerations at sentencing, such as:
- economic costs; and
 - public satisfaction.

III. What Are the Precursors to This Work?

- A.** The first step in moving from a list of sanctions to a defined continuum is understanding precisely what options are available and exactly what each entails.
- B.** Sharing this common knowledge allows policymakers to undertake a discussion about which sanctions are equivalent or interchangeable. Such a discussion cannot take place, however, until sentencing goals for defined groups of offenders are articulated. Clarity of sentencing purposes is essential to any meaningful discussion of the similarities and differences and strengths and weaknesses of sanctioning options.
- C.** Identifying the overall sentencing philosophy of your jurisdiction is the fundamental first step to defining a continuum of sanctions. It is only after these broad agreements have been made that a discussion can occur about the principles upon which scaling or grading will take place.

Creating Sentencing Policy

Kay A. Knapp*

Introduction During the last few years, discussions of intermediate sanctions have moved from a focus on specific programs (boot camps, intensive supervision, residential treatment, home detention with electronic monitoring) to a focus on the development and implementation of policy. Conferences, symposia, and workshops that once were organized around designing, staffing, and operating programs have evolved into policy sessions. Workshop agenda for intermediate sanctions are now very likely to include topics related to visioning, sentence purposes, monitoring and evaluation, and structure as an expression of sentencing.

In this chapter, we describe the building blocks, the essential considerations that go into the creation of sentencing policy. Such policy is at the heart of the intermediate sanctions process. It is in the development of policy that the decision-makers of the criminal justice system begin to function like a true system.

The Development of a Rational Policy Process

There are enormous benefits to a system of sentencing that is guided by rational policy. The most striking is the ability to achieve sentencing goals. A rational policy development process requires that (1) clear and realistic goals be established, and (2) the means by which they are to be achieved are explicitly articulated.

The development and implementation of a policy-driven system of sentencing is a daunting endeavor, however. It involves a major shift in the way business gets done. Because the decisionmakers involved have such different perspectives, it takes time and trust for them to begin to share some common ways of approaching issues.

The Key Components of Sentencing Policy

There are five key components in any sentencing policy:

1. Distribution of sentencing discretion;
2. Development and articulation of specific standards and principles;
3. Allocation of correctional resources;
4. Structural Relationships; and
5. Accountability.

Distribution of Sentencing Discretion

The most fundamental of sentencing issues is the distribution of discretion in the sentencing process. How is that discretion shared among the actors? The mapping tasks outlined in Chapter 9, *Developing a Common Frame of Reference*, might reveal a distribution with respect to intermediate sanctions that looks like this:

- The prosecutor has the ability to put a particular case on a track (a decision to charge at a level that requires a mandatory sentence, for example) that precludes an intermediate sanction.
- The probation officer can make a recommendation for or against an intermediate sanction in a particular case, a recommendation that might or might not include an investigation

of the availability of community resources for this offender.

- The judge can fashion an intermediate sanction for a particular case. In some instances, the judge might defer to a probation officer to fashion the specific intermediate sanction. In some jurisdictions, the judge's choices are limited to probation or prison, either because others control access to intermediate sanctions or because those resources are not available.
- Corrections administrators sometimes control access to the programs that are used in fashioning an intermediate sanction. (The judge sentences the offender to a term in jail or to probation, and the corrections officials decide whether or not he or she will be placed on work release or

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assigned to a treatment or training program, what level and terms of supervision will be ordered, and so forth.) Probation officers also play a large role in determining the response to probation violations.

- The use of many intermediate sanction resources is shared with post-prison placement, in which parole and corrections agents exercise discretion.

A policy development process provides the opportunity—indeed the necessity—to examine and evaluate that distribution of discretion. The process can be used to understand that distribution as well as to change it. The development of sentencing guidelines, for example, generally involves a redistribution of sentencing discretion from decisionmakers at the end of the sentence (such as prison administrators and parole officials) to those at the beginning (judges, prosecutors, and probation officers).

In the area of intermediate sanctions, many jurisdictions are using the policy development process to examine whether judges or corrections officials should control access to corrections resources. In other jurisdictions, the question is the role of judges in sentencing cases that result from plea agreements, where an intermediate sanction might have been appropriate but was not considered. A clear understanding and a realistic acknowledgment of the exercise of sentencing discretion is critical in a policy-driven approach to sentencing even if changing the distribution of discretion is not an issue.

While there is no “right” answer regarding the appropriate distribution of sentencing discretion, certain distributions are easier to integrate into a policy approach. It is more difficult, for example, to monitor highly diffuse distributions with shared discretion among many actors. Accountability is hard to establish and review. It is also more difficult to monitor the discretion of some actors than others. For example, monitoring the sentencing discretion exercised by prosecutors is challenging because prosecutor-

ial decisions regarding sentencing are invariably linked to evidentiary issues (that is, the strength or weakness of the case). It is almost impossible to sort out sentencing issues from evidentiary issues in prosecutorial actions. On the other hand, it is relatively easy to monitor sentencing decisions made by judges. Evidentiary issues generally do not play a large role in their sentencing decisions because guilt at a particular threshold has already been determined or admitted. Judges are also accustomed to articulating the reasons for their actions on the record, further facilitating ease of monitoring.

The policy development process should include the actors who have significant sentencing discretion. Their support will be critical to the success of any policy resulting from this process, so it makes sense to ensure that they have a role in creating it. Their participation is also needed because those with sentencing discretion have knowledge about the way the system operates and how behavior might change if the system is changed in certain ways. That type of information is essential in developing a realistic, thoughtful, and implementable public policy.

Development and Articulation of Specific Standards and Principles

Policy expresses the standards that exist or are developed to guide the exercise of discretion in decisionmaking. The importance of articulated policy is that it ensures that everyone agrees to or acknowledges the content of the policy. Explicit policy ensures that decisionmakers are acting in a coordinated way in relation to policy goals, that is, that each actor’s decisions are serving the same purpose or purposes.

Articulated policy, as opposed to informal practice (“the way things are done”) or totally individualized decisionmaking, provides key information to new judges, prosecutors, defense attorneys, and probation officers regarding the purpose of the criminal justice system in their jurisdiction and their role in fulfilling it. Finally, it allows those not involved in day-to-day

criminal justice operations, such as legislators and the public, to understand the basis on which decisions are made in the criminal justice system.

As discussed in Chapter 8, Agreeing on Goals, policy standards must be grounded in goals and values, sentencing purposes, and desired outcomes. Sometimes sentencing purposes conflict. For example, the goal of punishment that is proportional to the seriousness of the offense might conflict with the goal of offender rehabilitation in some instances. In the complex business of criminal sanctioning, values and goals are bound to conflict from time to time. It is important to develop policy that distinguishes different goals and prioritizes them: this is critical for effective resource allocation and for fairness in sentencing.

Policy standards must be realistic if they are to be achieved. Unrealistic goals can result in undesirable effects. For example, targeting an inappropriate population for an intermediate sanction program can set offenders up for failure, resulting in probation revocation and imprisonment. This cycle increases costs by putting offenders through both intermediate sanctions and imprisonment. Alternatively, unrealistic targeting criteria can result in dramatically increasing sanctions for minor offenders, resulting in the diversion of resources from more serious offenders.

Policy standards can be very general or very specific. In the area of intermediate sanctions, policy can be as general as community corrections acts that provide state funding for a variety of local intermediate sanctions that target property offenders. Policy can also be much more specific, with a unit-based approach and exchanges among sanctions and fairly specific targeting of offenders. (The unit-based approach and exchanges are discussed in Chapter 6, *Defining a Continuum of Sanctions*.)

To some extent, the more specific the policy, the greater the ability to plan for correctional resources and to implement policy successfully. Specificity does not necessarily imply a rigid or mechanical application; there can be considerable

Exhibit 7-1

Position Paper on Criminal Sanctioning, Colorado Criminal Justice Commission

Adopted December 18, 1992

The following policy framework, developed by the Colorado Intermediate Sanctions Project Team, is an example of one jurisdiction's policy development effort regarding the use of intermediate sanctions for adult felony offenders.

Introduction: The Criminal Justice Commission was created by the Colorado General Assembly in 1989 with mandates to study the criminal justice system and make recommendations for improvements. The mandates specifically refer to recommendations regarding sentencing structure, use of treatment programs, cost-effective use of correctional resources, and system coordination.

Findings: The Commission finds that authority within the criminal justice "system" is diffused among various branches and levels of government. This separation of power and authority provides for checks and balances within the system, but it also contributes to a system without common direction for some of its critical functions. The Commission finds that the system lacks a coherent policy to guide the sanctioning of criminal offenders. Without such a policy, decisionmakers have no point of reference for consistency within the system, it is difficult to project resource needs, and it is difficult to establish accountability within the system.

Recommendation: The Commission recommends and endorses the following sanctioning policy for adult felony offenders. It is intended to provide direction for the judiciary, district attorneys, the parole board, probation and parole staff, community corrections boards and programs, and other officials who have a role in the sanctions imposed on adult offenders.

Policy

Criminal justice officials exercise discretion in rendering sanctioning decisions for adult offenders in Colorado. Those decisions shall be based on principles of equity, fairness, parsimony, and nondiscrimination, with concern for cost efficiency and satisfaction from the general public that justice is served.

Sanctions for adult offenders shall address, in order of priority, the community, the victims of crime, and the offenders. (1) For the community, sanctions shall pursue the objective of **crime prevention**. Such sanctions should incapacitate or control offenders when necessary, provide opportunities for offender rehabilitation to reduce future criminal behavior, and deter future criminal activity. (2) For victims and communities harmed by crimes, sanctions should be imposed that provide maximum opportunities for **reparation**. (3) For offenders, sanctions shall be imposed that provide **retribution** in proportion to the seriousness of crimes.

flexibility to fashion the most appropriate sanction for a particular case under a detailed and specific system of exchanges in a menu approach.

Allocation of Correctional Resources

Just as we must be cognizant of the distribution of sentencing discretion, so must we be cognizant of the resources available or necessary to implement the policy. The articulation of policy is useful to identify resource needs. If, for example, an array of particular intermediate sanctions is to be used for a defined group of offenders, it should be possible to estimate the number of offenders in that group and the level of resources necessary to do a credible job.

Alternatively, what is the best use of available and finite resources? In this case, policy can be used to spell out the best use of existing resources or to redirect or restructure them.

Both of these approaches, one that links policy to resources and one that links resources to policy, are appropriate and necessary. The process is iterative and dynamic.

As noted in the preceding section, the more specific the policy standards, the greater the ability to plan for correctional resources and to successfully implement policy. A prerequisite for allocating correctional resources is a good system for monitoring sentences. With such a system, target populations can be closely monitored, as can the use of various sanctions vis-a-vis targeted groups. Software systems are available for assessing the impact of policy options on intermediate sanctions.

Structural Relationships

Policy must acknowledge and address structural relationships, including those between state and local governments and between the judicial and executive branches of government. These relationships tend to encompass parts of all of the policy elements that we have been addressing here: purposes, goals, the exercise of discretion in decisionmaking, and the use of resources. Who is responsible

for funding intermediate sanctions when diversion from prison is one of the goals? How is discretion shared? What are the accountability procedures for the exercise of discretion and access to resources? What funding mechanisms are in place or needed?

There is a wide range of structural arrangements among the states. In some states (Alaska, Missouri, Georgia), the state department of corrections funds and operates most correctional resources. Some observers note that in an overcrowded state system, it is difficult for intermediate community sanctions to compete with the needs of the institutions when those programs are combined in a single department. A more common arrangement is for the state to fund and operate prisons, counties to fund and operate jails, and counties and states to jointly fund some intermediate sanctions that are under county operation (Minnesota, Oregon, Kansas, Arizona). In another arrangement, the state funds and operates prisons and awards grants to private organizations to provide and operate programs for fashioning intermediate sanctions (North Carolina). In still another, the state funds and operates prisons, and another state agency funds and operates probation, parole, and intermediate sanctions (South Carolina). As budgets tighten, state/local funding formulas have become increasingly problematic. In addition, the goals of diverting offenders from prison or jail have become more difficult to establish and achieve.

A second major structural relationship is that between the executive and judicial branch. In some states, probation has long been a part of the judicial branch of government (Kansas, Arizona, Texas). In others it has been a part of the executive branch (Georgia, Oregon, North Dakota). The development and operation of intermediate sanctions, especially through the enactment of community corrections systems, has sometimes caused a rethinking of the traditional arrangement. While in many ways it makes sense to integrate the operation of probation with intermediate sanctions, such integration does not

always occur, particularly when probation has traditionally been a part of the judicial branch. In Kansas, for example, probation was left in the judicial branch, and community corrections was placed in the local executive branch. In Minnesota, probation had been a judicial function in two major counties and a state executive branch function in the other counties. With the implementation of a community corrections act, probation, parole, and community corrections were successfully integrated within the local executive branch. In Arizona and Texas, probation and community punishments have been integrated within the courts at the local level.

It is apparent that the structural arrangements among state government, local government, the executive branch (at each level of government), and the judicial branch (at each level of government) are varied, complicated, and not easily established, changed, or managed. This complexity is further compounded by the overlay of two issues that are not synonymous: First, who administers and operates the sanctions—local or state agencies, executive or judicial branch? Second, who has access to the sanctions—the judge, probation officer, or department of corrections? These issues are among the thorniest in the area of intermediate sanctions.

Accountability

The final key policy issue is accountability. A policy-driven sanctioning system requires monitoring and review—not just of offenders, but of criminal justice officials in the exercise of their discretion. The articulation of standards provides the measure by which to judge how well officials have done in matching targeted offenders with the appropriate sanctions.

In order to judge appropriateness, good information is needed on offense and offender characteristics and on case processing, including sentencing information. Chapter 10, *Building an Information System to Monitor Sentencing*, addresses the establishment and operation of a monitoring system that can be used for accountability.

Obtaining information to establish and maintain accountability is an area that has not been adequately addressed, but one that can and must be improved. The adoption of a policy-driven approach to sentencing makes it much easier to establish and maintain substantively useful sentence monitoring systems because the key elements and factors for assessing offenders and sanctions are already defined. That is one of the most important tasks in designing a monitoring system, and it comes readymade with a policy-driven approach.

Risks and Fears in a Policy Process

These five issues—distribution of sentencing discretion, development and articulation of policy standards grounded in values and goals, resource allocation and coordination, structural relationships, and accountability—are the major issues that need to be addressed in a policy development process. The benefits of a policy-driven approach are clear: better allocation of finite resources, more effective sanctions, increased fairness, better planning capability, and a greater ability to learn from our applications.

Despite the benefits, a policy-driven approach to sentencing is difficult to achieve. There are a number of perceived risks and fears. First, there is a fear of process, that is, engaging with other groups and other decisionmakers. It may be that every group in a jurisdiction is dissatisfied and wants change. However, when examined more closely, it becomes apparent that each group wants every other group to change the way they do business, but each is unwilling to change the way it does business. For example, we often hear, "If only the legislature would appropriate more money," or "If only judges would sentence the right offenders to the right programs," or "If only prosecutors would charge differently." Engaging in a policy process is risky because all groups may have to do business differently.

Another perceived risk is the fear of the unknown. The policy that will result from this effort is not known at the start of the process. While it sometimes seems that things cannot get much worse, they almost always can. But it all depends on your definition. "Worse" for some might mean that the policy will result in more incarceration. For others, the policy product might be aimed at

prison diversion and represent a way for the legislature to get off the hook of funding more prisons. Others fear that the policy might result in a redistribution of sentencing discretion. Many, especially elected officials, fear public reaction to the articulation of a realistic sentencing policy.

A good process, one that is ongoing and that includes appropriate participants who are committed to it, is the best guard against untoward results. But the fears and perceived risks can get in the way of

participants' establishing and committing to a good process. It is important for the policy group to openly and honestly address the risks that are perceived as well as the interests that are shared in developing policy. Attention needs to be given to how realistic those perceived risks are and to what might be done in the process of developing the policy to allay or minimize them.

Exhibit 7-2

Organizational Structure and Mission, Sacramento County Criminal Justice Cabinet

As one of their earliest efforts in the Intermediate Sanctions Project, policymakers in Sacramento County, California, identified a need to examine the structure through which criminal justice policy was addressed. As a result of this examination, the team established a coordinated system of communicating and exploring criminal justice policy.

The following excerpt details the complex criminal justice issues facing this jurisdiction and describes the rationale for the establishment of a policymaking body to gain control of those issues.

Need for Planning and Policy Change

During the 1980s, Sacramento County experienced a 32 percent population increase, from 783,381 residents to a 1992 population of more than 1,041,219. Already the seventh largest county in California, Sacramento is expected to grow at a rate exceeding those of most other heavily populated regions of the state. This growth has brought with it public demands for additional and improved government services and an increased concern for criminal justice issues.

Sacramento County and City governments have responded to this public concern by taking a tougher stance on crime. Additional police and sheriff's officers have been hired. Their activities have included crackdowns on alcohol and other drug abuse crimes and teenage gangs. The legislature has defined new crimes, increased criminal sentences and penalties, and enacted more mandatory minimum sentences. New judicial positions have been created to handle the increasing criminal caseload.

As a result of these measures, more offenders are being incarcerated. Tougher probation conditions have increased the number of adult and juvenile offenders incarcerated for violating probation. Judges are increasingly sentencing felony and habitual misdemeanor offenders to serve time in jail, often in combination with a period of probation. This has led to an increase in the use of jail and prison sentences in felony cases from 63 percent in 1977 to 85 percent in 1990. Another major change has been an increase in the number of convicted defendants participating in the Sheriff Department's Work Program, with driving under the influence (DUI) and serious traffic offenders constituting over 75 percent of the 21,275 defendants in this program. Punishments such as fines, restitution, and treatment are being used in addition to jail sentences or juvenile hall commitment.

To house the increasing number of incarcerated offenders, county jail capacity was increased by construction of the \$125 million Main Jail and an expansion of the Rio Consumnes Correctional Center (RCCC) branch facilities. The budget needed to operate these facilities now exceeds \$47 million a year. These new and expanded facilities represent only part of the county's response. Studies have been conducted to identify alternatives to incarceration programs. Special case processing practices have been implemented. These programs and practices allow for earlier release of selected incarcerated inmates while still maintaining a high standard and regard for public safety.

Despite all these efforts, and a tenfold increase in spending for justice agencies in the 1980s, public confidence in the local justice system has decreased while the fear of crime has increased. Agency administrators and elected officials express concern about inadequacies in the justice system. A common opinion is that the criminal justice system has undergone a costly expansion in the last decade that has not resulted in a meaningful or measurable impact on criminal conduct. It has been suggested that the system itself is facing a crisis in the 1990s.

Increases in staffing, technology, and funding have only allowed the system to keep pace with the number of arrests without allowing it to curb criminal conduct. During 1990, 61,342 adults and 7,792 juveniles were arrested in Sacramento County, representing 6.6 percent of the population. Analysis shows that the number of adult arrests is increasing at a significantly faster pace than the growth in the county's adult population. Felony adult arrests are at the highest level at any time since 1964, with serious violent crimes and drug law violations accounting for nearly one-fourth of the arrests. Adult arrest rates exceed the peak levels of the 1970s. Similar patterns are evident among juveniles.

Exhibit 7-2 continued

These increasing arrest rates are overwhelming police, corrections, and judicial resources and seriously crowding the jails and juvenile hall. The Board of Corrections (BOC) 1990 rated capacity of the County's jail facilities was 2,890. Based on this standard, the average daily inmate population (ADP) in 1990 exceeded available bed space by 9 percent. Projections show the jails may have a shortage of 1,059 beds in five years, requiring modifications to programs, services, and staff. These crowded conditions have also led to an increased exposure to litigation. A recently filed lawsuit, for example, alleges that crowding at the new Main Jail and RCCC has resulted in detainees having to sleep on the floor and has limited or restricted services to inmates in violation of rights established under the 8th and 14th Amendments. In response to this suit, the federal court has set a "cap" of 1,808 inmates who can be housed in the Main Jail. Other litigation issues are currently set for further judicial review.

The courts have also been affected by these work load increases. Case processing times are lengthening. The average time to dispose of a typical felony complaint from arrest to conviction has increased by 21 percent, from 126 days in 1977 to 152 days in 1990. In addition, victims, witnesses, and jurors have expressed concern about the time-consuming complexity of the process. The trial of civil court cases is adversely affected because of the expansion of criminal calendars, and there is a growing need for both improved secure facilities and expansion of courtroom space.

Public confidence has also declined because of a perception that a large number of probationers are totally unsupervised. Also, crowded jail conditions have led to a policy of releasing less dangerous pretrial misdemeanor detainees. This has created the perception of a "revolving door" that criminals are using to escape prosecution. This perception is supported by the fact that the failure-to-appear (FTA) rate for misdemeanants booked and released exceeds 60 percent. Issuance of bench warrants for these and other fugitives has caused a backlog of unserved warrants that exceeds 100,000.

The issue of sentencing is also being viewed with concern both by the public and the judiciary itself. Sentencing practices are often seen as inconsistent and of little support to those defendants wanting to make lifestyle changes that might reduce recidivism rates. Criminal defendants have significant psychological, social, economic, family, education, and treatment needs. At this time, there appear to be no ties between the court process and the human service agencies that could address these needs. In addition, there are very few alternative punishment options available to judges. Consequently, judges have to sentence criminal defendants either to county or state institutions or return them to the community on probation. While longer periods of prison or jail confinement are seen as appropriate for most repeat offenders and probation/parole violators, incarceration may be ineffective, inappropriate, or counterproductive for certain other targeted defendants.

A further indication of an adult and juvenile justice system that is failing has been the inability to effect change in the criminal behavior of defendants. Recidivism is high and is continuing to increase. In 1983, a felony pretrial detainee in the county jail had been arrested an average of six times. By 1989, that average had increased to eight times. As a consequence of this trend, the public has felt the need to "protect itself." Housing developments are now being designed as "gated" or "walled" neighborhoods, and private security firms are flourishing.

Another important concern is the growing realization that local governments do not have the financial resources to handle the increasing criminal justice caseload. The departments within the system are burdened with divergent goals and with priorities that are not clearly defined, well communicated, or effectively coordinated. Their budget requests are often directed to the symptoms of the system's shortcomings, rather than the major problems of the system. Programs and policy changes seem to be reactive, rather than proactive, in responding to needs.

From a planning perspective, the system has not yet adopted a systematic and comprehensive approach to identifying existing and long-term requirements for law enforcement, corrections, and court agencies. The coordinated leadership necessary to establish public policies based on research, evaluation, and monitoring of previous policy decisions is lacking. The data required to determine whether the current enforcement, case processing, administrative, and sentencing practices are working have not been developed. Only limited information measuring system performance or concerning the experiences of other jurisdictions is available.

Exhibit 7-2 continued

A comprehensive approach to educating the public about its unrealistic expectations of justice agencies has not been undertaken. Only minimal efforts have been made to obtain community acceptance for a more balanced range of intermediate punishments, which combine the characteristics of punishment, surveillance, and rehabilitation. Innovative corrections programs that might build confidence in local corrections policies have not been introduced to the community. The extent of the county's fiscal problems in responding to jail crowding and crime issues, and the limited role justice agencies can realistically play, have not been thoroughly explained to the public. The public's demand for "tough" criminal justice policies has discouraged system officials from undertaking such educational efforts.

In recognition of the critical need to address these issues, and with the realization that the criminal justice system cannot continue to function in this manner, Sacramento County is proposing to establish a new Criminal Justice Cabinet. The Cabinet will include city and county elected officials and budget managers, and court, criminal justice, and human services department personnel. Through a coordinated planning effort, the Cabinet will review, evaluate, and make policy recommendations on common juvenile and adult justice system issues.

Cabinet Composition

The Criminal Justice Cabinet brings together the various institutions that can effect the changes necessary to improve the current system. The Cabinet is a convention of delegates from the various branches of State and local government that constitute, operate, serve, fund, regulate, and otherwise affect the juvenile and criminal justice system in Sacramento County. It constitutes a voluntary association of government institutions represented by the delegates.

The Cabinet is composed of the following officials (not designees):

- Presiding Judge, Superior Court, Chairperson
- Presiding Judge, Municipal Court
- Presiding Judge, Juvenile Court
- Sacramento County State Assembly representative
- Board of Supervisors—member (designated by Chairperson)
- Sacramento City Council—member (designated by Mayor)
- District Attorney
- Sheriff
- County Executive
- Public Defender
- Chief Probation Officer
- Health Director
- Chief, Sacramento Police Department.

Principal Mission

The mission of the Cabinet is to study the Sacramento County juvenile and criminal justice system, identify deficiencies, and formulate policy, plans, and programs for innovative change. In addition, its mission is to communicate and present planning, financial, operational, managerial, and programmatic recommendations to the agencies represented on the Cabinet.

In order to discharge its primary mission, the Criminal Justice Cabinet will be organized into three committees:

1. Juvenile Institutions and Programs Committee;
2. Intermediate Punishments Committee; and
3. Adult Facility Planning and Operations Committee.

A technical services group will be formed to support the work of these Cabinet committees. The basic mission and membership of each committee is outlined

Exhibit 7-3

Minnesota Sentencing Guidelines and Commentary

Statement of Purpose and Principles

The purpose of the sentencing guidelines is to establish rational and consistent sentencing standards that reduce sentencing disparity and ensure that sanctions following conviction of a felony are proportional to the severity of the offense of conviction and the extent of the offender's criminal history. Equity in sentencing requires (a) that convicted felons similar with respect to relevant sentencing criteria ought to receive similar sanctions, and (b) that convicted felons substantially different from a typical case with respect to relevant criteria ought to receive different sanctions.

The sentencing guidelines embody the following principles:

1. Sentencing should be neutral with respect to the race, gender, social or economic status of convicted felons.
2. While commitment to the Commissioner of Corrections is the most severe sanction that can follow conviction of a felony, it is not the only significant sanction available to the sentencing judge. Development of a rational and consistent sentencing policy requires that the severity of sanctions increase in direct proportion to increases in the severity of criminal offenses and the severity of criminal histories of convicted felons.
3. Because the capacities of state and local correctional facilities are finite, use of incarcerative sanctions should be limited to those convicted of more serious offenses or those who have longer criminal histories. To ensure such usage of finite resources, sanctions used in sentencing convicted felons should be the least restrictive necessary to achieve the purposes of the sentence.
4. While the sentencing guidelines are advisory to the sentencing judge, departures from the presumptive sentences established in the guidelines should be made only when substantial and compelling circumstances exist.

The Interests and Risks Involved in Developing Policy

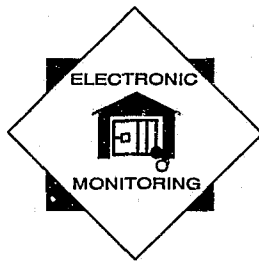
It is important for a policy group to openly discuss both the interests and risks involved in developing policy. Such a dialogue will help group members to establish common ground and develop an understanding of the factors that influence their views. The following exercise is designed to assist a policy group in beginning these discussions.

Objectives

1. To facilitate a discussion that will help team members understand one another's interests and risks in developing and implementing policy in the area of intermediate sanctions.
2. To identify obstacles to the development of policy—that is, those things that represent risks to team members.
3. To identify strategies to overcome those obstacles.

Instructions

1. Have each team member address his or her interest in the development of intermediate sanctions policy by addressing the following questions:
 - How might the development of policy help or hinder decisionmaking in the sanctioning process?
 - How might the development of policy facilitate or hinder relationships with other decisionmakers or agencies?
 - Would policy enhance or otherwise change the accountability of decisionmakers?
2. As a group, identify the risks that agencies or individual decisionmakers may face in participating in a policy development process.
3. As a group, identify the obstacles to policy development.
4. As a group, brainstorm possible ways to counter or neutralize the risks and obstacles that have been identified. Discuss the support that exists for policy development and how that support can be used in this effort.



A PPENDIX 13:

**TELEPHONE SURVEY OF ELECTRONICALLY
MONITORED HOUSE ARREST PROGRAMS
IN PROBATION AND PAROLE AGENCIES
AROUND THE UNITED STATES**

A SAMPLE

JANUARY, 1994

**A NON-SCIENTIFIC TELEPHONE SURVEY OF
ELECTRONICALLY MONITORED HOUSE ARREST PROGRAMS IN
PROBATION AND PAROLE AGENCIES AROUND THE U.S.**

Questionnaire Prepared for Presentation

at the

American Probation, Parole Associations's
Winter Training Institute

in

Cincinnati, Ohio

Prepared by

Diane McGinnis & Ted Forgach
Adult Probation Department of the Arizona Superior Court
in Pima County, Arizona

January 4, 1994

SURVEY QUESTIONS

Note to the interviewer: The following questions should be asked of probation and parole agencies already operating electronically monitored house arrest programs. This questionnaire should identify the agency, person and position of the person being interviewed and date. Please read the questions verbatim and tape record the interview (with permission of the interviewee) for subsequent completion of a typed finished copy to be presented later to the APPA Winter Training Institute in Cincinnati, Ohio on February 14, 1994.

To be read: We are gathering information about electronically monitored house arrest programs from a variety of locations. While we need basic information about your program, it is our intent to find out the following: 1) what you like and dislike about your program, 2) what you would change about your program, and 3) what you would advise other probation and parole managers who are planning or operating a program.

Interviewer:

John Prevost

Interviewee:

John Prevost

- 1) **What is the primary function of your agency? (e.g. probation or parole)**
Parole supervision
 - a. **Approximately how many people are on probation or parole to your agency?**
23,000
- 2) **Why do you have an electronically monitored house arrest program? (e.g. to enhance supervision, innovation, political pressure to reduce custody populations)**
As another progressive sanction to try to turn parolees around before having to resort to the more expensive sanction of prison.
- 3) **When did the program begin?**
October 1991
- 4) **What is the mission or stated goals of the program?**
 1. intrusive sanction to enhance surveillance
 2. measured response that is appropriate for the level of violation
 3. provide a structure for ensuring compliance with conditions of parole and thereby encourage law-abiding behavior.

a. Are the stated goals or mission statement in writing and recognized by management? Why? Why not?

Yes, the Parole Board adopted the program. This helped ensure they would follow through with the sanctions for failure on EM. Also, as a statewide program we have to have some consistency in policy.

b. Do you have written operational procedures for program staff to follow? Why? Why not?

Yes, see (a)

5) Whose idea was it to start the program? (e.g. legislature, political figures, judges, probation line staff, management)

Agency upper level management

6) What are the funding sources?

State funds as part of our regular budget

a. Are they renewable and under what conditions will the funding be continued?

Yes, there are no guidelines for determining a continuation of funding. We eventually will have to show that we are in fact diverting some people from prison and they are not an unacceptable to the community.

7) What were the major hurdles encountered during program planning?

Convincing staff this was a sanction that might work; Writing policy especially that part regarding how to respond to violations.

a. What action did your agency take to overcome them? Why?

A whole lot of collaboration inside the agency; a lot of data gathering about how programs are operated in other jurisdictions. And, good training

8) What were the major hurdles encountered during program implementation?

Getting field staff to use the equipment. We received a commitment from our Board that they would revoke anyone who would not comply with curfews as long as we stuck to the guidelines for selection. EM is used as our final progressive sanction before revocation. Most of the parolees selected were too far gone to be placed on EM. We had a lot of discussions about selection to help field managers feel more comfortable with their selections.

a. What action did your agency take or not take to overcome them? Why?

See above

9) **How were staff selected for assignment to the program?** (e.g. individual requests, special interests, involuntarily assigned)
Field office managers selected PO's

a. How was staff workload determined?

Officers with EM cases were relieved of a few other cases. No one parole office had more than 5 or 6 EM cases at one time

b. How was staff compensated for "on-call" hours, overtime worked, holidays on-call, holidays worked?

There was and still is no additional compensation for supervising EM cases. PO's do not have to respond to violations at off hours. A fax is sent to parole offices each morning with the activities of the offender the previous day.

10) **How many electronic monitors does your agency have available versus actually in use today?** (e.g. is there a waiting list for equipment or a surplus)
100 with approximately 70 in use now

11) **Does your agency lease or own your electronic monitoring equipment?** (e.g. field monitoring devices) **Why? Why not?**

The entire program is in the form of a service contract. We do installs; the service does everything else.

a. Is it passive? Active? Hybrid? Why did you choose it?

Active

b. What are the major problems with your equipment and what would you like to change if you could?

There are no problems with this equipment. There are some inherent limitations with the technology regardless of which company is used. Batteries never last as long as the vendor says they will. There are all sorts of obstacles in the home that interfere with the radio transmissions. These include metal objects like bathtubs and mirrors. Mobile homes are big metal cans and sometimes present problems.

- 12) The following question addresses four service areas. Please indicate: 1) whether your agency provides the service in-house, or contracts out; 2) whether the service is provided by probation and parole staff 24 hours per day, 7 days per week, or with officer availability Monday through Friday during business hours.

Table 1

Service Type	Check One		Check One	
	Agency Provides	Contracts Out	24 Hours (Immediate)	Business Hours (M - F)
A. Monitoring Center		***	***	
B. Field Installation Equipment Repair/Removal	***			***
C. Field Surveillance	***			***
D. Response to Curfew Violation and Tamper Alarms	***			***

12) (continued)

a. Would you change the nature of any of these four services? Why?

NO, You have to have a really big program to make it cost effective to run your own monitoring center. Our state is too big and spread out to afford contracting out any of the installation or surveillance.

13) How do you place and remove probationers or parolees into the program? (e.g. Court order, administrative decision, officer discretion)

The Board may place a person on or the preliminary hearing officer or the PO with the approval of the Chief PO.

14) Do you use a screening instrument or other process to place probationers or parolees into the program? Why?

The parolee must meet certain technical criteria (phone, head-of-household agree to have it on the phone, etc.) The parole officer must have tried all other sanctions or explain why the other sanctions are not appropriate. Other than these the process is somewhat informal.

a. Is it in writing? Why? Why not?

All the policy including criteria for making a selection are in the policy manual. This provides for consistency in decisions throughout the state

b. Is it incorporated into your departmental guidelines? Why? Why not?

See above

c. Does it utilize some sort of risk/needs prediction scale? Why? Why not?

No, each case is assessed by the PO and Chief

15) What are your guidelines for responding to curfew violations?

PO's receive a printout each morning of the previous day's activities. The officer bases the response on the length of the violation and how long the parolee has been on EM.

16) Do your parole or probation officers make arrests for any of the following?

a. confirmed curfew violations? When? How? Why? Why not?

Yes, depending on the length of the violation and the parolees previous conduct, other EM violations and length of time the parolee has been on EM.

b. confirmed tamper violations? (same as above)

Yes, This is a revocable offense every time

c. confirmed location violations? (e.g. when a probationer is found either to be at an unauthorized location, or absent from his authorized location like work, school, community service, outside his residence) When? How? Why? Why not?

See answer to (a)

17) Do you have difficulty in proving violations in probation or parole violation hearings? Why?

No, the monitoring service verifies all violations and the Board is confident in the accuracy of the system.

a. Has your agency had any of its electronic monitoring violation convictions appealed and/or overturned? What has your experience been?

Not yet!

b. Can you revoke on an unconfirmed electronic monitoring violation (e.g. the equipment says the person left but no on confirmed it with a call or in person)

We probably could but we haven't tried

18) Who retains the case supervision during the period of electronic monitoring? Why?

Each chief determines who supervises but usually the PO retains a case that is placed on EM.

a. Do you have specialized electronic monitoring caseloads? Why? Why not?
No, there are not enough cases in any one office

b. Is electronic monitoring available at all levels of probation or parole? Why? Why not?

No, at the present time it is only for parolees who are in serious non-compliance with the conditions of parole.

c. How long is the average length of stay on electronic monitoring? What length of time does your agency recommend for electronic monitoring? Why?

90 days, it was based on an analysis of other programs and how long we thought a parolee would need to demonstrate a willingness to comply with the conditions of parole.

19) How does your agency define program success and failure?

Every case, based on the guidelines, is a diversion from prison. Therefore, any amount of time on EM is a savings. Practically speaking, we look at if the person completes the time under EM. We do have an evaluation that is looking at a number of other factors.

20) What are the strengths versus weakness of your program?

We have good, well-founded policy and field staff who are well trained. We began the program as a pilot. This allowed us to develop some successes that could be shown to the rest of the staff as the program was expanded. EM is a sanction that does what it says it does. Parolees find that out very quickly.

We are still having difficulty using most of the equipment. Parole officers would like to apply EM to other cases and have more discretion in making selections. EM is more work and a pay supplement would help morale.

21) What would you change about your program? Why? Why not?

Pay supplement for PO's with EM cases. Develop guidelines for placing other parolees on EM so it could be more widely used.

- 22) **What would you want to share with probation and parole managers who are contemplating setting up or who are already running an electronically monitored house arrest program?**

Talk to other agencies about their programs; ask around about equipment; consider carefully whether you really want to run the program or contract out; Think long and hard about how you want to respond to violations (having a beeper is like being under supervision yourself). Get a vendor who you can trust to verify violations for you as part of the monitoring service. Do not oversell the benefits of EM; it is not going to prevent anyone from committing a crime. It does nothing more than enhance surveillance. Be careful how you write your bid specification so as not to unintentionally disqualify a vendor you want to consider. Do not underestimate what another jurisdiction tells you about the quality of equipment or a monitoring service.

- 23) **Is the offender's post electronic monitoring performance on probation or parole a significant measure of program success or failure in your agency? Why? Why not? Not at the present time but we are looking at that in our evaluation.**