

Curfew/Electronic Monitoring: The Northern Ireland Experience

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Summary: Curfew/electronic monitoring (EM) was introduced in Northern Ireland on 1 April 2009 as part of the overall new Criminal Justice (Northern Ireland) Order 2008 Sentencing Framework Implementation plan. This article looks at the wider picture of curfew/electronic monitoring across Europe, highlighting some of the experiences of other countries affiliated to the CEP–European Organisation for Probation. It also refers to research into effectiveness as well as some of the implementation issues and processes adopted for Northern Ireland. Curfew/EM is used as an additional requirement to a probation order and as a condition of licence following release from custody.

Keywords: Curfew, electronic monitoring, probation.

History of electronic monitoring

The origins of electronic monitoring (EM) appear to date back to the 1960s, when psychologist Ralph Schwitzgebel developed a programme of research at Harvard University into the use of electronics in managing offending behaviour (Gabel and Gabel, 2005). Schwitzgebel took out a patent for the first ‘tag’ in 1969, and it was piloted using students at Harvard University as subjects for the first trials. Interestingly, Schwitzgebel conceived of the idea in order to support a rehabilitative approach rather than as a punishment within the field of offender management. However, by the 1990s EM was beginning to be used in a more widespread way to reduce the pressure on prisons and as a means of introducing more control in the management of offenders in the

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community while still allowing offenders to continue to carry out daily routines. The global expansion of EM since the 1990s can be attributed to the need not only to reduce costs of an increasing prison population but also to enhance community supervision with the use of what were perceived as more modern, as well as more reliable, electronic techniques.

Types of electronic monitoring

When one researches the types and usage of EM it becomes apparent that there is a wide range of product, not least because of the involvement of the private sector in the design and development of increasingly sophisticated techniques mirroring the advances in electronics in other sectors such as the communications industry. The most frequently used technology is radio frequency; other approaches include voice verification, GPS satellite tracking and remote alcohol monitoring. However, in Europe most EM is linked to curfew requirements imposed on the offender within the community, although in some jurisdictions, notably Sweden, EM is used to track prisoners' movement within zones within a prison setting. In some cases exclusion zones may be electronically monitored to ensure that offenders do not approach or have contact with, for example, the victim.

Usage of electronic monitoring

Within Europe, England and Wales was the first jurisdiction to introduce EM in 1989 as a pilot project to monitor bail curfew. Sweden and the Netherlands followed in 1994 and 1995, and since then EM has been introduced in several other European countries. A recent CEP survey identified 16 jurisdictions operating EM mostly as additional requirements to community orders or as part of early or post release from custody. A smaller number of jurisdictions (four) use EM in part of pre-trial/bail curfew arrangements. The survey also found variations between jurisdictions in the length of EM arrangements, with Spain operating an average length of one month, rising to 23 months in France. Similarly monitoring periods per day vary according to the type of EM scheme, with the norm for community orders being two to 12 hours per day, rising to 24 hours per day for home detention curfew orders.

The survey also considered the most common offences for which EM was used, with generally more serious offence types being applied to post-custody release than for community orders. In some jurisdictions certain offence types are excluded; for example, sexual and violent offences are excluded in Norway, and in Denmark and Sweden offenders who commit crimes at or from home can be excluded. Most countries reported that the use of EM was linked to a support programme, such as supervision or treatment programmes in, for example, alcohol or drug therapy.

Victim aspects

The notification of victims about EM arrangements varied also, with more than half of the jurisdictions informing victims in some cases and the remainder not informing victims. The usage of EM to protect victims, known as bilateral EM – for example, to monitor restraining orders – has been in existence in Spain since 2005 and is being piloted in a number of other jurisdictions including Portugal, the Netherlands, Norway and Sweden. A study by Inka Wennerberg in Sweden in 2007, which surveyed 42 victims of violent, sexual and robbery offences for their perceptions of EM, produced both negative and positive responses. The negative responses included a view that the sentencing was too soft or lenient, and among the positive responses victims felt that offenders would be more able to keep their job and that the sentence was less harmful for the offender. Concern was also expressed that the offender might be more likely to seek revenge for a sentence that was perceived as more punitive. Most victims wished to be informed of EM arrangements being put in place.

Studies on the use of electronic monitoring

Surprisingly, there are very few published studies on the effectiveness of EM, apart from the recently published research by Marklund and Holmberg (2009) which explores the effects of early release from prison using electronic tagging in Sweden. This study compared 260 participants in an early release from prison programme using EM at home with a control group of the same number and profile who did not participate in the programme. The results showed that during the three-year reconviction study 26% of the EM group were reconvicted

compared to 38% of the control group, and that 14% of the EM group were sentenced to a new prison/probation sanction compared to 26% of the control group. The best results in relation to the level of reoffending between the two groups were recorded among slightly older individuals (aged over 37 years). The researchers argue that this may indicate that there is something about being older that makes people more receptive to the kind of support offered in connection with the EM programmes.

Previous research conducted in the USA by Renzema and Mayo-Wilson (2005) found nothing to suggest that EM had any positive effects on reoffending. However, the Swedish and US studies both conclude that the chances that EM will produce a positive effect increase if it is employed within the framework of a programme that also includes other measures such as an individual treatment plan.

Curfew and electronic monitoring in Northern Ireland

The system of EM for enforcement of curfews was introduced on 1 April 2009 under the Criminal Justice (Northern Ireland) Order 2008. Under the new provisions, electronically monitored curfews can be directed as a condition of bail granted by a court; as a condition of licence; as a condition of a probation order, custody probation order or combination order; as a requirement of a youth conference plan to which a youth conference order relates; or as a requirement of a juvenile justice centre order.

A curfew or EM requirement under the Criminal Justice (Northern Ireland) Order 2008 must last for at least 14 days and can only be enforced for between two and 12 hours in any one day, but EM is a very flexible system. For example, a subject may be monitored on certain days of the week or from different addresses on different days. It is therefore possible to tailor the requirement to individuals rather than adopting a uniform sanction. Furthermore, in the course of community supervision the length of the curfew hours may be increased or decreased as the period progresses.

The EM service provider in Northern Ireland is Group Four Securicor (G4S), which will install the tag and monitoring equipment and provide monitoring reports to the various supervising agencies including the Police Service for Northern Ireland (PSNI), Probation Board for Northern Ireland (PBNI) and Youth Justice Agency. The

response and subsequent enforcement action by the agencies will depend on a range of factors; for example, there is more immediate notification to PBNI for higher risk offenders as well as to the police for those who break bail curfew conditions.

In line with sentencing guidelines issued in England and Wales, the purpose of EM in Northern Ireland is to increase public protection and aid the rehabilitation of the offender. As stated earlier, research suggests that EM is effective when used as part of a work plan for individual offenders and should therefore be used as part of a package of interventions. While EM curfew actively restricts liberty, it also allows offenders to participate in work, training and education and to attend programmes designed to address their offending behaviour. A curfew can help to break patterns of behaviour and offending by restricting movement and the opportunity to offend. A recent Criminal Justice Joint Inspection report expressed disappointment that EM was not consistently integrated into supervision planning.

Some professional considerations

Some of the main concerns about the increasing use of technology to monitor offenders are the fear that EM is the thin end of the wedge, that more and more resources will be diverted into surveillance and that technology will displace rehabilitative approaches rather than augment them. However, it can be argued that technological advances driven by the private sector will not go away, and that electronic devices will improve and become smaller, more usable and more user-friendly as well as more cost-effective. Similarly, prison will remain costly in both human and monetary terms, and public demands for increased protection will not diminish. Professor Mike Nellis, at the CEP EM Conference in May 2009, suggested that 'Techno-corrections of some sort in the twenty-first century are inevitable'.

The challenge for those involved in offender rehabilitation and management is to be open to the use of technology to support and supplement humanistic approaches and to the view that electronic approaches are not incompatible with rehabilitation, preventing reoffending and reducing the human and financial costs of imprisonment.

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