

# **FEASIBILITY OF ELECTRONIC MONITORING FOR PRETRIAL RELEASE IN THE LEE'S SUMMIT MUNICIPAL COURT**

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## ABSTRACT

Electronic Monitoring is an innovative practice that has been utilized in courts throughout the country for over three decades, for both sentencing and pretrial release. Generally pretrial release electronic monitoring is used in courts dealing with felony and misdemeanor cases, mostly at the state court level. A review of national programs did not identify a single limited jurisdiction court that utilizes this practice for municipal ordinance violations.

This project examines the current use of electronic monitoring for pretrial release and the feasibility of a successful program in a municipal limited jurisdiction court. The data-collection efforts include a survey of primarily municipal court judges throughout Missouri, the majority of which are part-time and practice in small jurisdictions throughout the state. One-on-one interviews were also conducted with both state and municipal court judges from larger jurisdictions as well as probation officers, defense attorneys, a prosecutor and a public defender. Several electronic monitoring pretrial release programs throughout the country were studied and evaluated including telephone interviews with program administrators.

There was generally overwhelming support for electronic monitoring for pretrial release among those who are either currently utilizing the service or those familiar with the programs and their benefits. What became clear throughout this project is that many municipal judges in the State of Missouri are unfamiliar with the practice and thus unwilling to consider its usefulness. The study concludes with five recommendations including an electronic monitoring pretrial release pilot project in the Lee's Summit Municipal Court and sharing results

of the pilot project with other judges and courts throughout the state to expand awareness of alternatives to pretrial incarceration.

## INTRODUCTION

The criminal justice system faces many challenges in today's tough economic times. It is a difficult balancing act that requires innovation, creativity and making tough decisions. The numerous challenges include jail overcrowding, diminishing budgets and, in some instances, fines for exceeding jail capacity numbers.

We are a society that likes to incarcerate. According to a Bureau of Justice Statistics report, the number of adults in the correctional population has steadily increased since 1980.<sup>1</sup> According to the report, over 7.2 million people were under some form of correctional supervision in 2009, up from 1.8 million in 1980. The correctional surveys collected revealed a 317% increase in the jail population and a 377% increase in the prison population between 1980 and 2009.<sup>2</sup> The "jail population" includes confinement in a local jail pending trial.

One alternative to pretrial incarceration and release on recognizance is electronic monitoring (EM). Electronic monitoring, also referred to as house arrest, is an innovative practice utilized throughout the country. It may be used in sentencing as an alternative to jail time (generally for minor offenses), but may also be used as an alternative to incarcerating a prisoner awaiting trial that is unable to post bond. These programs may be run by the court, the county, the state or independent agencies. Two programs discussed later in this paper are run by counties, and one program is run by a large municipal court.

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<sup>1</sup> Bureau of Justice Statistics, <http://bjs.ojp.usdoj.gov/content/glance/corr2.cfm>, January 8, 2010.

<sup>2</sup> Glaze, Lauren, Minton, Todd and West, Heather, Bureau of Justice Statistics Correctional Surveys, December 16, 2010, [askbjs@ojp.usdoj.gov](mailto:askbjs@ojp.usdoj.gov) (202) 307-0765

Pretrial EM is a pioneering practice that employs technology to track defendants released while awaiting trial and respects the “presumption of innocence,” a foundation of our criminal justice system. Some of the goals of an EM pretrial release program include:

- Assuring defendant’s appearance in court while protecting against inequality in treatment of the rich and poor within the criminal justice system;
- Allowing defendants opportunities to maintain jobs and meet family obligations while awaiting trial;
- Tackling budget constraints by minimizing taxpayer dollars allocated to prisoner housing costs.

It’s important to also consider the goals of punishment in addressing the many challenges facing the criminal justice system today. The traditional goals are to incapacitate the offender, protect the community, rehabilitate the offender, affirm societal norms and seek retribution.<sup>3</sup> Considering these goals, along with the protection of our liberties provided by the Constitution of the United States of America, it is important to ponder if pretrial incarceration is a form of punishment and if EM is a viable alternative. This project is designed to examine the feasibility of electronic monitoring for pretrial release in a municipal court environment.

The Lee’s Summit Municipal Court, a division of the 16<sup>th</sup> Judicial Circuit Court of Jackson County, Missouri, is a limited jurisdiction court serving a community of over 93,000 constituents.<sup>4</sup> Lee’s Summit is a geographically-large city encompassing 65 square miles in the

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<sup>3</sup> King, Rachel, *A Worthy Punishment, Oldspeak*, an online journal of The Rutherford Institute, 2006, <http://www.rutherford.org/oldspeak/Articles/Law/oldspeak-KenLay.asp>, 10/24/2010.

<sup>4</sup> City of Lee’s Summit Demographics 2009, <http://cityofls.net/Development/Demographics-and-Statistics.aspx>.

southeast metropolitan area of Kansas City, Missouri, and is the 6<sup>th</sup> most populous city in the State of Missouri.<sup>5</sup>

The Missouri Court System consists of three levels of courts (see Appendix A).<sup>6</sup> The circuit courts (trial courts) are courts of original civil and criminal jurisdiction. There are 45 judicial circuits and a court in every county of Missouri. Missouri municipal courts, divisions of the circuit courts, are of limited jurisdiction and hear municipal ordinance violations. Generally, municipal courts are locally funded and are not courts of record. Appeals of municipal cases are heard at the associate circuit level.

The Court of Appeals is the intermediate appellate court and handles appeals from the circuit courts, except those in which the Supreme Court has exclusive jurisdiction. The Court of Appeals is divided into three districts: Eastern, Southern and Western, each handling cases within its geographical area or jurisdiction.

The Supreme Court of Missouri has been the state's highest court since the first Missouri constitution was adopted in 1820.<sup>7</sup> The Supreme Court has exclusive jurisdiction over the following types of cases on appeal:

- The validity of a United States statute or treaty
- The validity of a Missouri statute or constitutional provision
- The state's revenue laws
- Challenges to a statewide elected official's right to hold office
- Imposition of the death penalty.

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<sup>5</sup> Ibid.

<sup>6</sup> Your Missouri Courts: Know your Courts 2009, <http://www.courts.mo.gov>, page 258.

<sup>7</sup> Ibid, page27.

The Lee's Summit Municipal Court has two part-time elected judges, a court administrator and a staff of twelve, including a probation division. The court processed over 16,900 cases in 2009. Total case filings of 15,449 consisted of 3% alcohol/drug traffic, 72% other traffic and 25% other ordinance violations. Cases filings of 15,419 in 2010 consisted of 2% alcohol/drug traffic, 72% other traffic and 26% ordinance violations. Prisoner arraignments are held via video conferencing each Wednesday and Thursday of the week, except during any fifth week of the month when they are held on Tuesday mornings. Judges and prosecutors are on call 24 hours a day to arraign prisoners during other days and times of the week.

Each month during 2010, an average of 19 defendants were held in lieu of bond (past the initial bonding period) for an average of 10 days at the Lee's Summit detention facility. For January through June 2010, average incarceration days for the month for pretrial prisoners was 240.5 days. For the period July through December, the average was 114.7 days. The vast difference in these numbers is likely a result of the election of a new judge in April 2010, who replaced a judge that had been on the bench in Lee's Summit for over 30 years. The new judge has been releasing more prisoners ROR than did the previous judge, particularly after they have been in jail for two days or more. While the failure to appear rate appears to have remained relatively steady throughout the year at an average of between 20 and 30 percent, statistical data on failure to appear rates among the increased number of prisoners released ROR will be closely monitored.

The Lee's Summit Police Department's holding facility does not have the capacity to house prisoners overnight for extended periods of time. Prior to April 2010, Lee's Summit prisoners were housed in a private jail facility approximately 45 minutes away at a cost of \$40



per day for males and \$45 for females. The private jail facility closed unexpectedly and the city contracted with the Daviees/DeKalb County Correctional Facility at a cost of only \$35 per day for both male and female inmates. This facility is approximately 70 miles from Lee's Summit and provides transportation to and from the Lee's Summit jail. Incustody offenders are generally kept at the Lee's Summit jail for a minimum of 24 hours to allow an opportunity to post bond prior to transport to the Daviees/DeKalb facility.

In the Lee's Summit Municipal Court, pretrial release EM would provide another alternative for judges to consider for prisoners unable to post bond. When a citation is issued for an ordinance violation, a court date is assigned or the accused is taken into custody, depending upon the severity of the charge. The prisoner may post bond, but if bond is not posted within 24 hours, the charge must be presented to the prosecutor for filing and the probable cause presented to the judge for assignment of bond. Missouri law prohibits an accused from being held beyond 24 hours without a warrant for the charges filed. After charges are filed and warrant issued, the prisoner is generally transported to the Daviees/DeKalb facility.

Video prisoner arraignments are held in Lee's Summit each Wednesday and Thursday, and on Tuesday mornings during any fifth week of the month. Prisoners with attorneys or requiring language interpreters are transported back to the Lee's Summit facility for arraignment in person before the judge. At that time, the judge may:

- Require prisoner be held in lieu of bond
- Release prisoner on recognizance, sometimes requiring probation supervision until court date

- Accept a guilty plea for time served or additional jail time or fine.

In Lee's Summit, prisoners held in lieu of bond are generally held for more serious violations, ranging from driving while intoxicated and driving while suspended to domestic assault and stealing. On average, the percentage of in-custody offenders held in lieu of bond include:

- 20% - driving while suspended or revoked
- 18% - domestic assault
- 16% - probation violation
- 12% - stealing
- 9% - drug/alcohol traffic
- 8% - other drug violations
- 5% - minor in possession of alcohol
- 2% - general assault
- 2% - fleeing or eluding/failing to obey officer
- 7% - other ordinance violations.

The judges decide whether to ROR a prisoner primarily based on several factors beyond severity of the current charge:

- Local ties to the community (family, business, etc.)
- Past criminal history
- Potential danger to the community (based on criminal history and current charge)
- Drug and alcohol dependency issues
- Past failure to appear rates
- Warrants in other jurisdictions.

The more options available to judges, the more fair and equitable the system. An EM program would provide our judges with alternatives to ROR or hold in lieu of bond for prisoners unable to post bond. With an EM program available, our probation division would perform a risk assessment utilizing a form developed internally but modeled after other forms currently in use. The Jackson County house arrest program utilizes a lengthy form (see Appendix B) that

was obtained from the Missouri Department of Probation and Parole in 2001. Jackson County has not undertaken their own formal validation process; they instead have relied upon the validation performed by that department.<sup>8</sup>

Jackson County's risk assessment process entails interviewing the prisoner for relevant information to record on a "County House Arrest Screening Form." Residential information is gathered, including both a primary and secondary home plan. Access to a landline phone is mandatory as an essential component of house arrest; names, ages and relationship to defendant of all other residents in the home are also required. Employment history, including current and past two employers and dates of employment, is gathered. The principle resident of the chosen "Home Plan" is required to sign an agreement that lays out critical conditions to be met for home plan qualification.

At culmination of the data-gathering process, the Population Control Coordinator concludes completion of the form with an "Other Considerations" section that details assessment of the cooperative and courteous attitudes of both the defendant and the "Home Plan" resident as well as other information relating to defendant's criminal history and alcohol use. The "scoring" of the screening form is done by the coordinator's assessment alone, which is reflected in the "Recommendation" at the end of the form. The coordinator checks "Yes" or "No" for recommendation for defendant's participation in county house arrest and adds comments as to acceptance or declination. This form is presented to the judge at time of arraignment for his/her consideration during disposition of prisoner; the Population Control Coordinator is also present to answer any additional questions the judge may have. This

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<sup>8</sup> Communication with Population Control Coordinator of Jackson County, Missouri, January 10, 2011.

screening process provides valuable information and assists the judge in the decision process. It is the judge's decision alone to approve or decline defendant's participation in the program. The Jackson County Population Control Coordinator reports that the risk assessment process is very successful in screening potential participants and providing judges with tools to improve their decision-making process. Although the Jackson County court deals with felony and misdemeanor cases as opposed to ordinance violations, the principals of the risk assessment process are the same and represent a model for development of a screening process for our court.

The Lee's Summit Municipal Court has consistently been on the cutting edge of municipal court technology and innovation. Our court is one of a handful municipal courts in Missouri with an in-house probation division that supervises probationers and collects probation monitoring fees , averaging between \$10,000 and \$12,000 in monthly revenue to the city. The court's first CourTools© report was published in 2009 and a second report is currently in production, signifying the value of judicial accountability and transparency in Lee's Summit. The court consistently measures performance as well as evaluating and implementing new programs and processes to improve effectiveness.

Is an innovative EM pretrial release program feasible for our court? Many factors must be considered to determine if potential cost savings and other benefits outweigh a safety risk to the community. A risk assessment process would be utilized to assess the feasibility of prisoners for EM pretrial release and provide answers to questions judicial officers need to know, including:

- Does defendant pose a threat to others?

- Is defendant a persistent offender?
- Is defendant likely to appear on the scheduled court date?

A local Kansas City vendor quotes rates of \$12 to \$15 per day for radio frequency EM. A state contract with the Missouri Department of Corrections provides radio frequency EM at a cost of \$1.79 per day. The vast difference in pricing structure relates to level of services provided by the vendor. While the local vendor monitors all calls and alerts and reports to designated court personnel only when a valid violation occurs, the MDC contract provides for equipment only. Probation, detention or court staff would be required to monitor alarms and alerts around the clock, which presents significant challenges in and of itself. It is important to determine if either alternative would represent a significant savings to Lee's Summit taxpayers as compared to the daily prisoner housing costs at Daviees/DeKalb.

A recent controversy in Missouri highlights the potentially tragic consequences of setting bond conditions---even in traffic cases. An interview with a local area judge revealed the tragedy of the events. In 2010, a man alleged to be high on PCP and driving with a suspended license killed a 13-year old boy in a collision. After his arrest, it was learned that he had been recently released on a reduced bond on another charge of driving with a suspended license and that his driving record showed multiple convictions for other serious traffic violations. The state judge who reduced his bond announced his early retirement in the aftermath of the public outcry following this tragedy. The retiring judge's duties had included setting bond amounts and conditions for all state crimes in the western part of his judicial circuit, including rape, murder, manslaughter, burglary, drunk driving, etc. After this event, the presiding judge for the judicial circuit issued an administrative order clarifying procedures

regarding bail and pretrial release. The order requires that specific information relevant to setting bond when the case is initially filed must be included with the probable cause statement.

Balancing the rights of the accused against public safety, jail overcrowding and prisoner housing costs is an integral part of a pretrial release program. This report seeks to determine if electronic monitoring is a feasible alternative to bond in a limited jurisdiction court processing only municipal ordinance violations.

## LITERATURE REVIEW

Article III of the Constitution of the United States of America creates the judicial branch of government but is much less specific in defining structure as compared to Articles I and II establishing the legislative and executive branches. Although Article III establishes a Supreme Court, authority to create lower courts as needed is left to Congress. Recognizing the need to more narrowly define the national judiciary, Congress created The Federal Judiciary Act signed into law by President Washington on September 24, 1789, the same year the Bill of Rights was introduced.<sup>9</sup> The Act was officially titled “An Act to Establish the Judicial Courts of the United States” and was principally authored by Connecticut Senator Oliver Ellsworth.<sup>10</sup> It creates the position of attorney general and establishes principles for state and federal court jurisdiction as well as general parameters for judicial authority, including bail. The Act provides that bail is available in all noncapital cases:

Upon all arrests in criminal cases, bail shall be admitted, except where punishment may be by death, in which cases it shall not be admitted but by the supreme or a circuit court, or by a justice of the supreme court, or a judge

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<sup>9</sup> Federal Judiciary Act (1789), <http://www.ourdocuments.gov/doc.php?flash=old&doc=12>

<sup>10</sup> Judiciary Act of 1789, <http://www.loc.gov/rr/program/bib/ourdocs/judiciary.html>

of a district court, who shall exercise their discretion therein.

The Sixth Amendment to the Constitution of the United States of America reads:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or laws of any State to the Contrary Notwithstanding.

One of the responsibilities of a judge in a criminal case is to address the issue of bail and pretrial release of the accused. The Eight Amendment to the Constitution of the United States of America reads:

“Excessive bail shall not be required.”

The Federal Judiciary Act, however, did not differentiate between pretrial and post-conviction bail. In 1946, the Federal Rules of Criminal Procedure made that distinction:

Rule 46. Release from Custody; Supervising Detention

(a) Before Trial. The provisions of 18 U.S.C. §§ 3142 and 3144 govern pretrial release.<sup>11</sup>

Section 3144 of The Code relates to release of a material witness in accordance with the provisions of Section 3142, which sets parameters for setting pretrial bond while providing wide judicial discretion. With liberty at stake, the final subsection of Section 3142 highlights a fundamental right of the accused:

“(j) Presumption of Innocence: Nothing in this section shall be construed as modifying or limiting the presumption of innocence.”<sup>12</sup>

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<sup>11</sup> Ibid.

<sup>12</sup> 18 U.S.C. §1342(j)

With the presumption of innocence, an accused should not be held in jail simply because he/she is poor. However, until the Bail Reform Act of 1966, courts could rely only upon monetary bonds to ensure appearance of a defendant at future proceedings.<sup>13</sup>

The 1966 Act addressed assuring future appearance of an accused and instituted nonmonetary conditions of pretrial release. In his remarks at the signing of The Act on June 22, 1966, President Lyndon B. Johnson stated:

“...So this legislation, for the first time, requires that the decision to release a Man prior to the trial be based on facts—like community and family ties and past record, and not on his bank account. In the words of the act, ‘A man, regardless of his financial status—shall not needlessly be detained...when detention serves neither the ends of justice nor the public interest.’ ...”<sup>14</sup>

The 1966 Act sought only to assure appearance and did not address pretrial detention based on any danger to an individual or to the community.<sup>15</sup> Thus, a judicial officer had little choice when faced with this dilemma. Another shortcoming of The 1966 Act was its failure to address the issue of recidivism of individuals on pretrial release.<sup>16</sup>

The Bail Reform Act of 1984 retains much of the essence of the 1966 Act, but explicitly provides legislative authority for judicial officers to consider dangerousness of the accused in setting the “least restrictive conditions of release.”<sup>17</sup> The 1984 Act prohibits imposing financial conditions of release that an accused cannot meet but also presents grounds under which pretrial detention may be ordered.<sup>18</sup>

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<sup>13</sup> Ward, Krista and Wright, Todd, **Pretrial Detention Based Solely on Community Danger: A Practical Dilemma.** 1999 Fed.Cts.L.Rev.2, page 3.

<sup>14</sup>Remarks at the Signing of the Bail Reform Act of 1966. June 22, 1966.  
<http://www.presidency.ucsb.edu/ws/index.php?pid=27666>

<sup>15</sup> Supra note 9.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid, page 4.



The American Bar Association sets out criminal justice standards for pretrial release.

Part I, General Principles, Standard 10.1-1, states:

The purposes of the pretrial release decision include providing due process to those accused of crime, maintaining the integrity of the judicial process by securing defendants for trial, and protecting victims, witnesses and the community from threat, danger or interference. The judge or judicial officer decides whether to release a defendant on personal recognizance or unsecured appearance bond, release a defendant on a condition or combination of conditions, temporarily detain a defendant, or detain a defendant according to procedures outlined in these Standards. The law favors the release of defendants pending adjudication of charges. Deprivation of liberty pending trial is harsh and oppressive, subjects defendants to economic and psychological hardship, interferes with their ability to defend themselves, and, in many instances, deprives their families of support. These Standards limit the circumstances under which pretrial detention may be authorized and provide procedural safeguards to govern pretrial detention proceedings.<sup>19</sup>

These standards acknowledge the challenge of balancing due process of the accused with threats to community safety and assuring defendant's appearance at trial. A judicial officer must consider the severity of the offense while assigning the least-restrictive conditions of release to assure the defendant's appearance in court. At the municipal level, offenses are generally less punitive, but release should not be solely dependent upon the accused's inability to pay.

In the mid-1960's, Harvard psychologist Robert Schwitzgebel and his twin brother developed the first electronic monitoring device in seeking alternatives to incarcerating young offenders.<sup>20</sup> The now-familiar combination of home monitoring unit and transmitter worn by the offender emerged in the late 1970's thanks to District Court Judge Jack Love from

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<sup>19</sup> [http://www.abanet.org/crimjust/standards/pretrialrelease\\_blk.html#10-1.1](http://www.abanet.org/crimjust/standards/pretrialrelease_blk.html#10-1.1)

<sup>20</sup> DeMichele, Matthew and Payne, Brian, **Offender Supervision with Electronic Technology: Community Corrections Resource**, 2<sup>nd</sup> ed., 2002, page 13. Publication of the American Probation and Parole Association.

Albuquerque, NM.<sup>21</sup> His idea of using the offender's telephone to report his/her presence or absence at home led to the first offenders being placed under this form of "house arrest" in Albuquerque in 1983.<sup>22</sup>

By early 1988, EM devices were in use in 20 states for many purposes, including pretrial jail diversion.<sup>23</sup> Their use enhances offender control within the community, with the degree of control defined as follows:

Curfew: home confinement during limited and specified hours, generally at night (component of intensive supervision and/or jail work-release programs)  
Home Detention: more restrictive, as the offender must remain at home at all times except for work, school, treatment or other approved or defined purpose  
Home Incarceration: offender is restricted to home at all times excluding very limited activities (religious worship or medical treatment).<sup>24</sup>

The use of EM devices for offenders has grown significantly since that time, with both radio frequency and GPS devices in service throughout the country.

A valid concern and unintended consequence of pretrial release is *net widening*.<sup>25</sup> Would the population targeted for reduction actually increase? In the instance of pretrial release, the number of offenders under the control of the state (or municipality) would grow rather than contract. In Lee's Summit, would the judges be inclined to assign an accused to EM pretrial release that they may have otherwise released ROR, thereby increasing the number of prisoners under the court's control? If so, this would result in additional costs to the city and would not achieve the intended goals of the program.

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<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Fogg, Vern, 1989. *Electronic Monitoring in Intensive Probation and Parole Programs*, Bureau of Justice Assistance Monograph, Washington, D.C., page 2.

<sup>24</sup> Ibid.

<sup>25</sup> Spohn, Cassia, 2002. *How Do Judges Decide?* Sage Publications, Inc., Thousand Oaks, CA., page 48.

In this realm, a judge may also make a mistake and release someone on EM who shouldn't have been released, as in the Missouri case earlier referenced involving the death of a 13-year-old boy. This would be considered a "Type I" statistical error, or a "false positive." In this instance, the judge released someone that was deemed to be safe to release, when in fact it was not safe.

The judge could also err by not releasing someone to EM that should be released. This would be a "Type II" statistical error, or a "false negative." Perhaps defendant did not or could not provide enough information or did not have an adequate support system or domestic foundation to justify release. This Type II error may be more expensive and considered overly safe, but the Type I error is much more costly to society.

### **Existing Programs**

A brief look at existing programs and studies is relevant to the significance of this review. One such program in Mesa, Arizona was the topic of a 2009 ICM CEDP paper.

The Mesa, Arizona Municipal Court conducted an EM pretrial release pilot program from August through December, 2008.<sup>26</sup> Criteria used for considering release to electronic monitoring included:

- Case is at pre-adjudication status
- Defendant does not pose a potential threat to others
- Defendant does not have a request to be held from another jurisdiction
- Defendant has the ability to charge the device for two hours each day.<sup>27</sup>

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<sup>26</sup> Lemke, Albert J. *Evaluation of the Pretrial Release Pilot Program in the Mesa Municipal Court*, ICM CEDP Phase III Project, 2009, page 26.

<sup>27</sup> Ibid.

Mesa utilized their own staff and equipment for this project including Municipal Court, Police Department, City Prosecutor and Information Technology staff. Ninety GPS-enabled ankle bracelets were utilized throughout the course of the pilot project.<sup>28</sup>

Of the numerous challenges reported by Mesa during the pilot project, the most problematic seemed to be the additional burden on staff, as well as the technological difficulties. Numerous tamper and/or strap alerts received were discovered to be communication errors rather than “tampering” alerts, and 38% of the devices had to be replaced during the course of the project.<sup>29</sup> There were also communication problems and limitations with satellites needed to position the device; it often took three to four times the expected amount of time for activation and placement.<sup>30</sup>

During the Mesa pilot project, 151 defendants were placed on electronic monitoring for a combined total of 3,598 days; total monitoring costs were \$25,186, an estimated savings of \$144,000 in prisoner housing costs.<sup>31</sup> Interestingly, the failure to appear rate also dropped significantly during the project, from the general court average of 29% to only 5%.<sup>32</sup> It is unclear from the study whether this significant reduction was tied to a reminder call placed to defendant the day before the court date or whether defendant simply was eager to have the device removed.<sup>33</sup>

Evaluation of the Mesa program, including input from a survey of the court’s seven judges, concluded that the electronic monitoring pretrial release pilot project was a success,

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<sup>28</sup> Ibid, page 27.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid, page 27-28.

<sup>31</sup> Ibid, pages 28-33.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

and a permanent program in the Mesa Municipal Court was recommended. A necessary component and resulting recommendation was additional staffing resources because of the tremendous time commitment required to ensure a successful conclusion.<sup>34</sup>

In Broward County, Florida, a successful pretrial release program utilizing EM became a victim of powerful bail lobbying groups and political pressure.<sup>35</sup> The program operates out of the Broward County Sheriff's Office Pretrial Services Division. Three years ago, Commissioners in Broward County voted to expand the pretrial program after its significant success and resulting plunge in jail population. The program was so successful that Broward County cancelled plans for a new \$70 million jail and closed an entire wing of the existing jail, saving taxpayers in excess of \$20 million per year. It thus came as a shock when two years later, the same Commissioners voted to gut the funding and strictly limit who can qualify for pretrial release. At the same time, Broward's bail bondsmen contributed significant funds to council members and commissioners' political campaigns before the bill was passed.<sup>36</sup>

Efforts to limit pretrial programs are occurring throughout the country. While bondsmen have special interest groups and millions of dollars to back them, pretrial programs are faced with diminishing resources. The result is fewer dedicated and selfless public servants to combat the problem.<sup>37</sup>

The county house arrest program in Jackson County, Missouri, operates out of the Jackson County Department of Corrections, Office of Population Control. The program was implemented as a result of a civil rights violation filed in federal court. Rahn Hall, et al., vs.

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<sup>34</sup> Ibid, pages 50-55.

<sup>35</sup> Sullivan, Laura 2010. **Bondsman Lobby Targets Pretrial Release Programs**, page 1.  
<http://www.npr.org/templates/story/story.php?storyId=122725849>

<sup>36</sup> Ibid, pages 2-3.

<sup>37</sup> Ibid, page 4.

Jackson County Department of Corrections, et al, Case No. 84-1200-CV-W-1, was filed in the United States District Court for the Western District of Missouri, Western Division, in 1984. The suit was filed on behalf of inmates of the Jackson County jail due to overcrowding. The result was a consent decree assessing a fine any time Jackson County exceeded the cap of 624 inmates. Thus, judges have been under constant pressure to release individuals from the county jail while they are awaiting trial. There was some reluctance to do so without assurances that there was some other form of monitoring while they were released from jail, so the county house arrest program was developed. Even though Jackson County is no longer under the federal court mandate, there continues to be pressure from the county to stay under this cap.

Through a statewide survey of Missouri municipal court judges and interviews with state judges, prosecutors, probation staff, attorneys, and public defenders, this report will examine existing programs, attitudes and perceptions of EM pretrial release. Coupled with Lee's Summit court and jail statistical data, conclusions will reflect the feasibility of this type of program for our community.

## **METHODOLOGY**

In determining whether a pretrial EM program is feasible for a municipal court, it is important to assess attitudes and perceptions of stakeholders concerning this type of program. A web-based survey of judges who are members of the Missouri Municipal and Associate Circuit Judges Association was conducted (see Appendix C) as well as interviews with two state court judges currently utilizing county house arrest and two municipal court judges. The

opinions of judges are paramount because they make the decisions concerning bond and sentencing. Opinions of the municipal prosecutor (formerly a county prosecutor) interviewed are important because prosecutors may have objections to EM release or requests for specific conditions relating to release. Probation officers are generally an integral part of the day-to-day operations of an EM program; their workloads will likely be heavily impacted so their input is crucial. The opinions of defense attorneys, including a municipal public defender, provide essential observations of the legal community.

Out of 323 surveys emailed to municipal and associate circuit judges, I received 92 responses, for a 28.5% response rate. The surveys were emailed on September 8, 2010, and the majority of responses were received within ten days. Demographic information obtained aids in analyzing and understanding survey results.

Just over 90% of respondents are from municipal courts, over 60% of which serve populations under 10,000; only 22% serve populations over 20,000. Almost 80% are from single-judge courts, and nearly 84% are part-time judges. Number of years on the bench ranges from 38% in excess of 15 years, 25% from 4 to 7 and 8 to 15 years equally, almost 8% from 1 to 3 years and 4% under 1 year. Nearly 74% of respondents' courts have under 10,000 case filings per year with 10% over 20,000 per year. Only 16% have in-house probation programs and 51% utilize outside agencies; 29% have no probation service at all. Thus, the survey indicates that a large majority of respondents are from small cities and towns in rural parts of Missouri where judges likely have little exposure, other than through occasional educational programs, to new and innovative practices. These are areas where generally "everyone knows everyone," and judges may be less concerned about defendants not showing up for court as required. The fact

that over 1/3 of respondents have been on the bench for more than 15 years may also indicate that they are less likely to be open to pioneering practices.

It is also worth noting that while all 92 respondents answered all demographic questions, response numbers began to diminish once the question focus shifted to specifics about an EM program. Not all respondents were willing to share their observations and/or opinions about this type of program. It is interesting to consider why that occurred.

## FINDINGS

Several key findings emerged as a result of my research.

- ***Funding for the project is a key concern.*** Of 68 comments to “Barriers to implement the EM program in your court,” 84% listed funding concerns as a primary barrier.

This is understandable, particularly in today’s economy. Many courts are facing a significant budget crisis and may have a difficult time justifying new programs. However, costs of incarceration are rarely a court budget issue. Jail costs are generally part of the police department budget in municipalities, or part of the sheriff’s office or separate prisoner housing budget in states and counties.

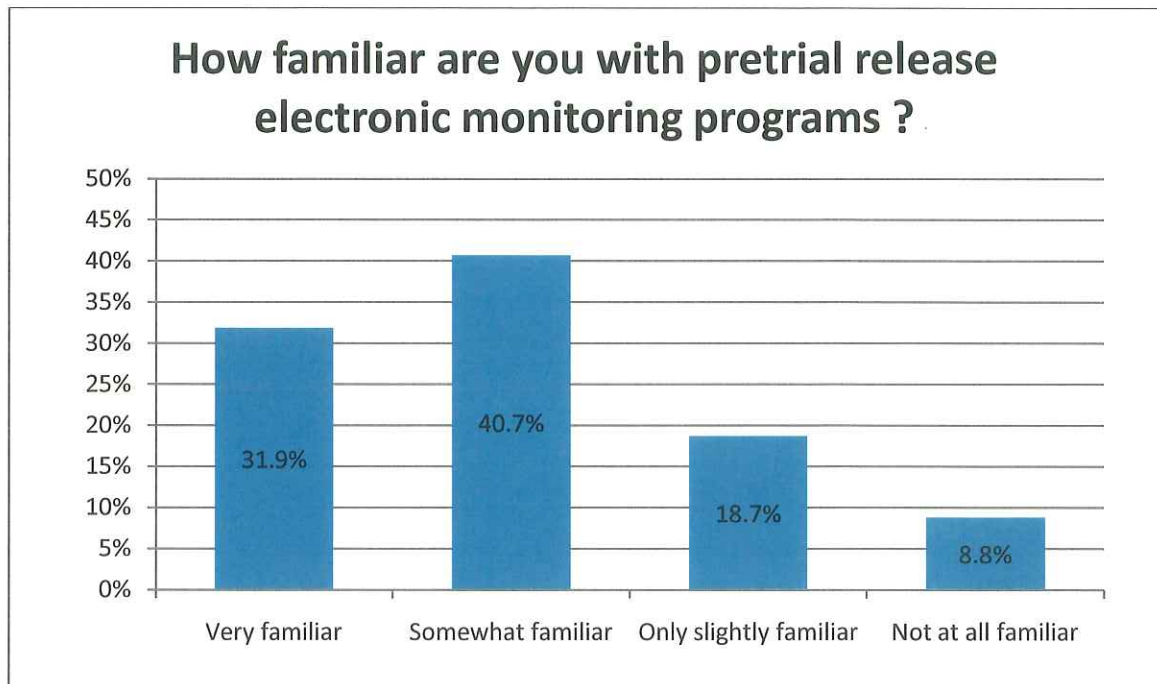
One Jackson County Circuit Court Judge believes that funding is the only negative aspect of the County House Arrest program in Jackson County. “We don’t have the resources to expand the program, to make it more effective, to be able to utilize monitoring for more individuals.” The Judge believes that county house arrest gives judges another tool to utilize. “It provides options and tools that we wouldn’t ordinarily have, so it’s very important to how we effectively control the jail population. We can



allow the defendant to remain outside of custody and keep some control over them if there is concern about safety to the community.”<sup>38</sup>

- **Not all Municipal Court judges have knowledge of EM programs.** Over 90% of judges responding are Municipal Court judges, and almost 28% of respondents have either no familiarity or little familiarity with EM programs (see Figure 1 below). An additional 41% are only “somewhat familiar.” Several comments indicated that some judges are not familiar enough with the program to understand that pretrial EM would likely be funded out of the city’s jail budget and should be reserved for only those defendants who cannot post bond. The daily cost of EM would likely be less than the daily cost of incarceration, thus saving taxpayer dollars.

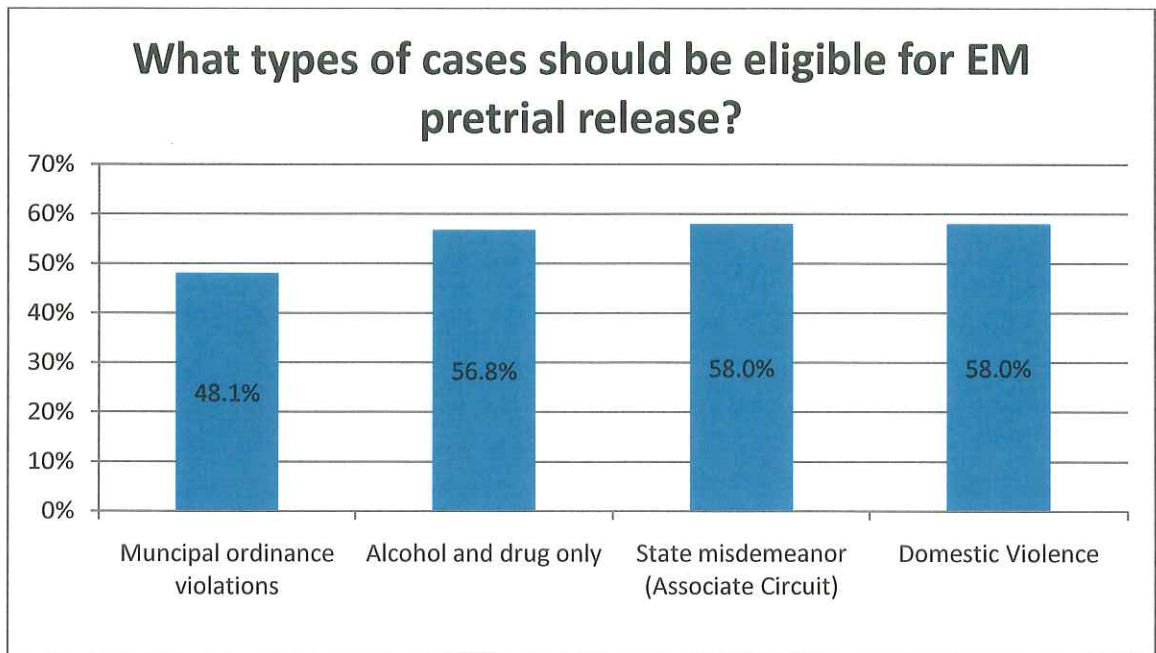
Figure 1. n=91



<sup>38</sup> Interview with a Jackson County, Missouri Circuit Court Judge, November 4, 2010.

- **Appropriateness of pretrial release EM for municipal courts.** Almost half of all respondents feel that EM is appropriate for municipal ordinance violations (see figure 2 below). Numerous comments in the survey support that proposition. “In many cases, EM is a viable alternative to pretrial incarceration. In addition, performance on EM can assist in consideration for probation.”

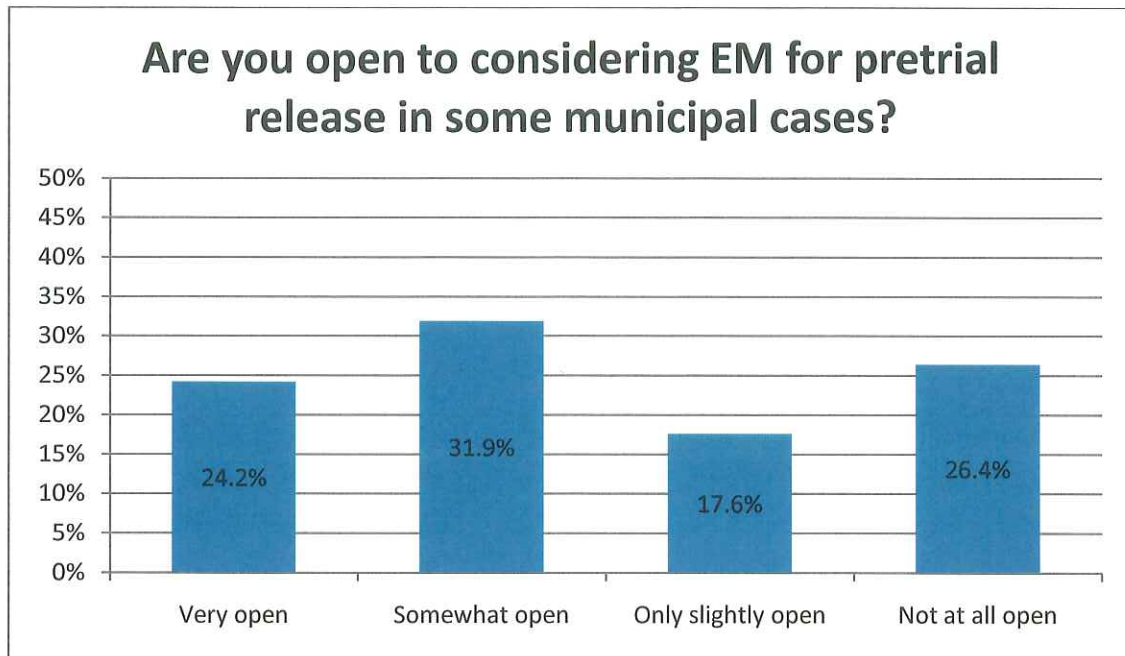
Figure 2. n=81



Although over 50% of respondents believe that this program may be more suited for state charges or alcohol/drug and domestic violence cases only, it is encouraging to note that many judges are open to consideration for municipal court violations (see

figure 3 below). This is significant in light of the high percentage of respondents that have limited knowledge of EM programs.

Figure 3. n=91



Numerous survey comments support the notion of this additional option for municipal judges to consider:

“A program that utilizes a risk assessment can help ease overcrowding in jails.”

“I believe it is useful, especially if combined with electronic alcohol monitoring.”

“I would very much appreciate some alternative to the current choice of ROR or continued pretrial incarceration.”

The EM pessimists generally have very strong feelings and were eager to post comments supporting their disapproval:

“Not practical given the minor nature of most of the ordinance violations we deal with. EM release would not be cost effective for most offenders in our court.”

“If bonds are only set when needed to assure appearances and are set according to the financial abilities of the defendant, the bonds should be fair and every defendant should be assured of release...”

I believe two comments in particular support my hypothesis that the lack of knowledge by municipal judges on the advantages of an EM program contribute to their unwillingness to consider it as an option:

“Municipal court cases do not warrant such extreme measures pretrial. If the person’s conduct is that much of a risk to the public, it should be referred as a felony.”

“I believe that any offense serious enough to justify holding defendant in jail should not be in municipal court in the first place. They should be prosecuted in state court.”

In Jackson County, it is generally not up to the municipal prosecutor to determine what cases are filed in state court or in municipal court. The state prosecutors often “kick” the charge back to the municipal court, even though the police department may have sent it through for state charges. Jackson County is so backlogged with cases that they often refuse to accept charges that may be considered “serious enough to justify holding defendant in jail.” Thus, in actuality, Lee’s Summit may have a prisoner deemed inappropriate for ROR but a good candidate for EM pretrial release.

- ***State court judges are more likely to view the program as beneficial.*** Municipal courts in Missouri hear only city ordinance violations, most not deemed serious enough to warrant consideration for pretrial release EM. Many judges simply release the offender on their own recognizance. Municipal judges in small, rural areas seem more likely to believe that if the offense is serious enough to warrant EM pretrial release, the offense

should be heard at the state court level. However, in more urban areas, state court prosecutors are overwhelmed with caseload.

“There are a lot of crimes handled in our municipal courts simply because our county prosecutors are too busy or don’t have enough resources to pursue,” states the Presiding Judge of a Missouri metropolitan-area municipal court.<sup>39</sup> “So a lot of this stuff is getting crunched down into the municipal level that in Sedalia<sup>40</sup> would be charged in state court.” The Judge does not believe that this type of program is “overkill” in municipal courts. “I can certainly understand the rural judge’s perspective because I have practiced in some of these courts and I know that those county prosecutors have the time and resources to prosecute these cases that ordinarily don’t get the attention of our local county prosecutors. So, we are different.”

- **Technology concerns.** Another Jackson County Circuit Court Judge is concerned about manipulation of equipment. “Some individuals are pretty clever in trying to get out from under their timeframe restrictions. Anything you do outside in the community is always subject to manipulation. But you can’t stop programs simply because there is some witty individual who will figure out how to get from under restrictions.”<sup>41</sup> The Judge is also concerned about access to telephone landlines, which is a requirement for EM. With the increased use of cell phones, finding a suitable home with a landline can be a challenge.

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<sup>39</sup> Interview with a municipal court presiding judge, November 18, 2010.

<sup>40</sup> Sedalia, MO has a population of approximately 21,000 and is located about 60 miles southeast of Kansas City.

<sup>41</sup> Interview with a Jackson County, Missouri Circuit Court Judge, September 7, 2010.

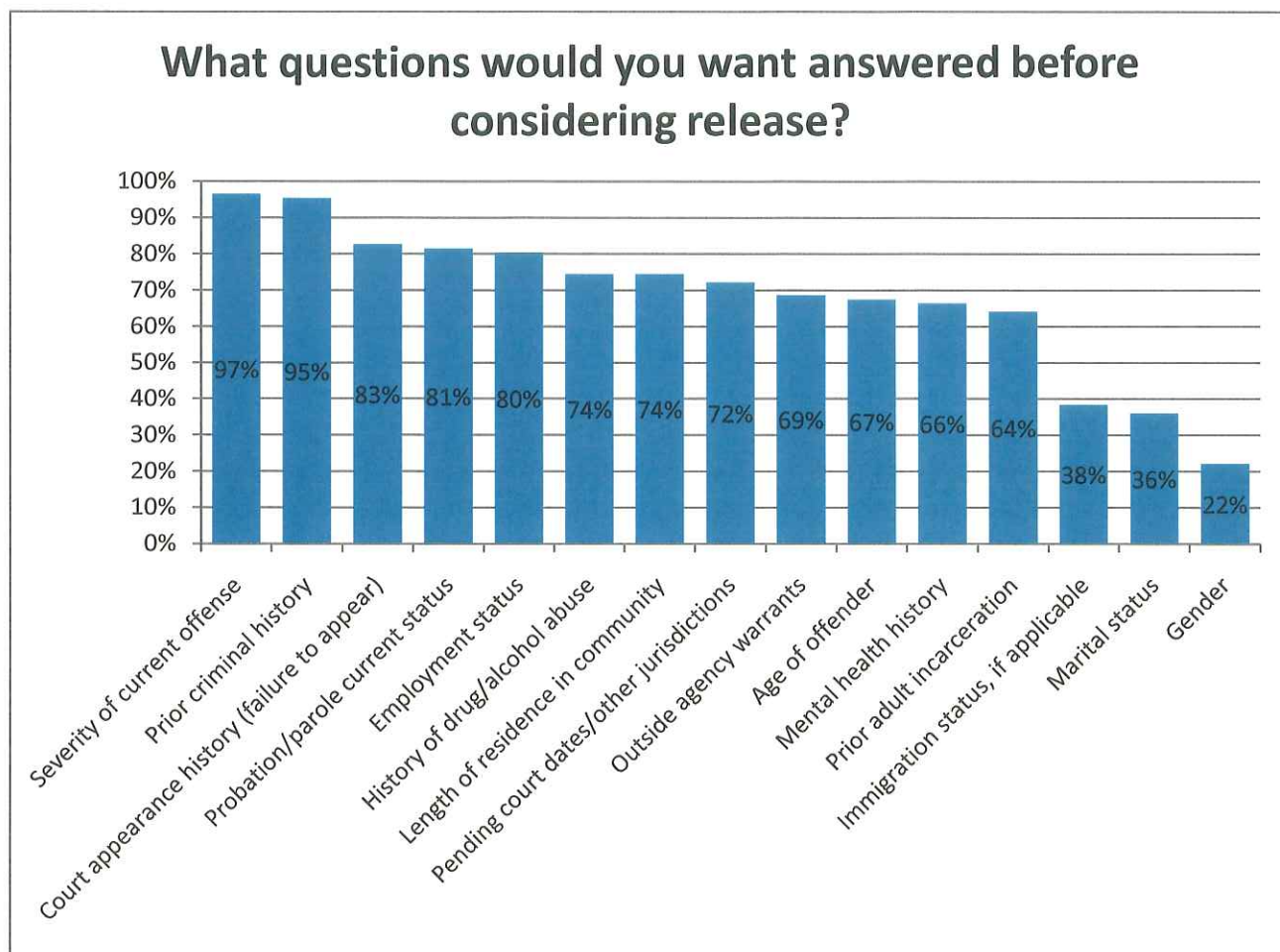
Related to the funding issue, another metropolitan-area municipal court judge is concerned about who would bear the cost of damaged equipment. “I believe a barrier to implementing the program would be the fine-tuning of the agreement. For example, who bears the cost for altered or destroyed equipment?”<sup>42</sup> The judge is also concerned about ensuring that the alleged offender understands how the equipment works. Her experience with wearing a SCRAM bracelet for a week-long trial resulted in some confusion. “I found the sequence of the lights very confusing. So, ensuring that everything is adequately explained is very important.”

The majority of judges responding to the survey believe that a risk assessment should be performed prior to considering pretrial EM release (86%) and figure 4 below includes questions that judges would most likely want answered prior to EM release. According to the survey, the most important risk assessment considerations are severity of the offense and the accused’s prior criminal history. The next most important considerations include court appearance history (failure-to-appear rate), current probation/parole status and employment status. According to the survey, information such as gender, marital status and immigration status have little importance to judges in consideration of pretrial EM release. This information will be critical in modifying and adopting the Jackson County risk assessment tool for our court’s pilot project.

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<sup>42</sup> Interview with a metropolitan-area municipal court judge, November 22, 2010.

Figure 4. n=86

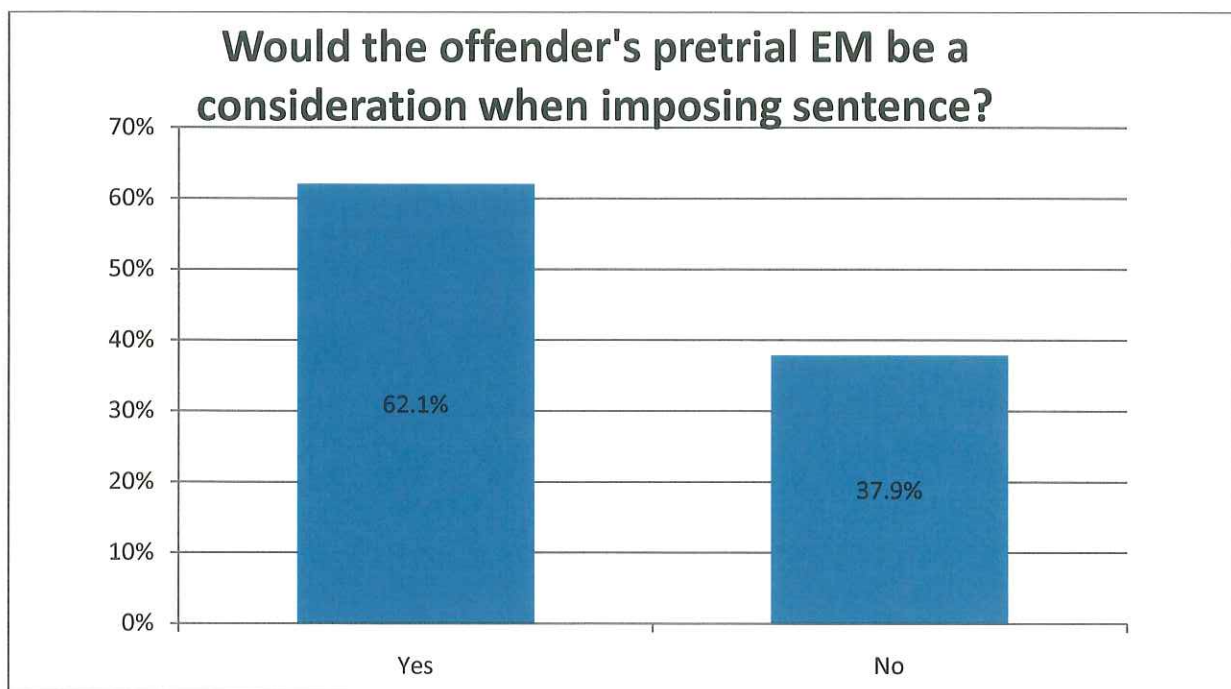


Some municipal court probation officers are concerned about risk assessment data. “I think one-on-one interviews are important because some people look good on paper and then you meet with them and they have a nasty attitude. You just have a feeling, and you kind of have to go with your gut sometimes,” states one probation officer.<sup>43</sup> “We would do a very thorough investigation ... I would not recommend this program for anyone we were really concerned about.”

<sup>43</sup> Interview with a Missouri municipal court probation officer, August 30, 2010.

A metropolitan area public defender is concerned about the impact on sentencing. “If they do ten days of house arrest, that should count towards a sentence. They should get credit for any time spent in jail or on house arrest.”<sup>44</sup> According to the survey (see figure 5 below), almost two-thirds of judges would consider pretrial EM when imposing sentence.

Figure 5. n=87



The public defender is also concerned about inequality in treatment of offenders being held in jail pretrial. “So many times, if you are in jail, you are treated differently. If they are in jail with no money, they aren’t going to get a good plea offer.” She also believes that the accused can defend themselves better if they are not in jail. “Many times, people will just plead

<sup>44</sup> Interview with a metropolitan area municipal court public defender, September 10, 2010.



guilty to get out of jail – get credit for time served and be done - even if they think they aren't guilty.”<sup>45</sup>

Almost 45% of survey respondents believe that an EM pretrial release program is an effective tool in addressing inequality in treatment of the rich and poor in the criminal justice system. According to one respondent, EM “should be affordable when a bond is beyond a defendant’s means but EM is an affordable alternative.” However, just over 55% do not believe it has an impact as indicated by a comment supporting that perspective: “In my opinion, the existence of an EM pretrial release program does not, in and of itself, protect against inequality in the treatment of defendants. The only real source of such protection is a sensitive and impartial magistrate.”

One-on-one interviews revealed differing perspectives on the question of inequality in treatment of defendants. One defense attorney interviewed felt very strongly that 10% bonds made more sense than EM and was more cost effective for defendants and cities. Another defense attorney focused on releasing defendants to allow them to continue to be productive and “create a new reality.” Allowing the accused to continue to work and pay for legal representation, as well as strive to exhibit positive behavior while on EM release, could have a positive impact on the judge’s sentencing decision. “The easiest person to put in jail or keep in jail is someone that will have the least amount of impact on society...The hardest person to put in jail is someone for whom the ripple effects are multiple, so they lose a job, a family, the debts owed to a creditor, the people that that person is accountable for.”<sup>46</sup>

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<sup>45</sup> Ibid.

<sup>46</sup> Interview with a metropolitan area defense attorney, October 1, 2010.

A metropolitan area municipal prosecutor, who is also a former state prosecutor, offers a different perspective. She wonders if people are being treated differently based on ability to pay. “I don’t think people should get more favorable dispositions because they could afford to pay an attorney... but I also don’t think they should be popped out of jail and put on to house arrest simply because they are indigent.”<sup>47</sup> There must be a broader purpose for pretrial EM release than inability to pay, although that is generally the primary factor. Surrender of personal liberty based on the severity of the offense, coupled with risk to the community and probability of appearance in court, are significant factors that tie into the overall purpose of creating more alternatives for judges to consider.

Opinions of state court judges may vary, but generally differ from that of municipal court judges. One circuit court judge references the impact of immediate action after arrest. He believes that when people suddenly realize that their liberty is at stake, and an alternative is presented, they tend to behave really well. “They don’t want the consequence. I think you render them less fearful the longer they sit in jail awaiting trial.”<sup>48</sup>

Another circuit court judge believes that an EM program does help with inequality of treatment, to a certain extent. “...Is it fair that that individual may be a candidate for county house arrest if he/she can’t post that bond and a person who CAN post it now doesn’t have to be subject to that condition?”<sup>49</sup> Her conclusion is that while it does not even out, it certainly helps keep things more equal.

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<sup>47</sup> Interview with a municipal court prosecutor, August 30, 2010.

<sup>48</sup> Ibid, footnote 38.

<sup>49</sup> Ibid, footnote 41.

Municipal court judges interviewed also believe EM can have an impact on inequality, although they want to make sure that it's not used on people who would have otherwise been ROR'd. This reference to "net-widening," as discussed earlier, may be a primary concern in municipal courts where the accused is more likely released on recognizance as opposed to sitting in jail. One judge believes it could have a more broad use. "It could also be used for someone who we have on bond supervision who we then want to revoke their bond, so it would be a stair-step from a total bond revocation...to not revoking their bond and immediately putting them in custody."<sup>50</sup>

According to another municipal court judge, the inequality question is rather complex. While he believes it could have some impact, he points to those situations where the judge would not release someone from jail regardless of how much money he may or may not have. There is always consideration for family members or if they have a job, as long as they have no negative history with the court in terms of violating terms of release or failure to appear. So indigence is only a part of the picture in considering EM pretrial release. "Frankly, people who are truly indigent are more likely to get an ROR bond."<sup>51</sup>

### **Positive Attributes of Electronic Monitoring**

There are many positive aspects as well as many concerns to implementing an EM pretrial release program. Cost factors, technological issues, community safety and impact on failure to appear rates are valid concerns that may cause hesitation. However, the opportunity to save taxpayer dollars in incarceration costs and the ability to provide judges with additional alternatives are attractive potential benefits. It is likely that EM pretrial release may also help

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<sup>50</sup> Ibid, footnote 42.

<sup>51</sup> Ibid, footnote 39.

mitigate equality concerns. One way to examine these opportunities would be to conduct a pilot program; to systematically evaluate the program, see the costs and benefits in action when they are measured and experience the potential long-term impact. Clearly the more knowledge judges and court professionals have about the program, the more likely the consideration for participation, and the more optimistic the expectation for positive outcomes.

## **CONCLUSIONS AND RECOMMENDATIONS**

### **CONCLUSION 1: WHILE ELECTRONIC MONITORING HAS BEEN SHOWN TO BE A FEASIBLE ALTERNATIVE FOR STATE COURTS, IT IS NOT CLEAR THAT IT IS EFFECTIVE FOR COURTS PROCESSING ONLY CITY ORDINANCE VIOLATIONS**

Programs in state courts and in municipal courts processing misdemeanor cases have been successful in reducing prisoner housing costs. No data is currently available to show similar results in courts processing city ordinance violations. Comments from the survey indicate some municipal court judges question the usefulness of an EM pretrial release program in their courts.

### **RECOMMENDATION 1: IMPLEMENT AN EM PILOT PROJECT IN THE LEE'S SUMMIT MUNICIPAL COURT AND SHARE PROJECT RESULTS WITH MUNICIPAL COURTS THROUGHOUT MISSOURI**

Implementing a pilot project in the Lee's Summit Municipal Court will answer many questions. Does this program make sense in a municipal court setting? Will it be utilized enough to warrant the time involved in administering the program, and will a significant cost savings be recognized? Will net widening be an issue? These are important questions

necessary to answer to determine usefulness on a wide-scale basis. Clearly a pilot project should be implemented in our court as soon as possible.

Program assessment would involve data-gathering to include:

- How often EM is utilized
- Increased workload for court staff (including probation), detention staff, prosecutors and judges
- Impact on failure to appear rates
- Any increase or decrease in recidivism
- Cost savings to the city.

#### **CONCLUSION 2: A GENERAL LACK OF KNOWLEDGE EXISTS AMONG MISSOURI MUNICIPAL COURT JUDGES CONCERNING EM PRETRIAL RELEASE PROGRAMS**

Survey data indicates municipal court judges in Missouri are relatively unfamiliar with EM programs, particularly for use in pretrial release. Municipal court judges in larger cities may have more exposure to these types of programs, primarily due to area state courts utilizing the practice. EM used in sentencing has been more widely utilized, but is still very limited in the municipal court setting.

#### **RECOMMENDATION 2: PROVIDE INFORMATIONAL AND STATISTICAL DATA TO MUNICIPAL COURT JUDGES TO INCREASE KNOWLEDGE AND UNDERSTANDING OF EM PROGRAMS**

Simply exposing these judges to my recently-distributed survey can help increase awareness. Distribution of survey results and other research findings may improve knowledge and understanding as well as stimulate interest in seeking viable alternatives to incarceration.

It will be important to share results of a municipal court EM pilot project, regardless of the outcome. Expanding awareness of alternatives to incarceration as well as providing judges with additional tools can only improve the administration of justice.

**CONCLUSION 3: FUNDING IS A KEY CONCERN TO SUCCESSFUL IMPLEMENTATION OF AN EM PROGRAM**

It is clear that the ability to fund this type of program presents a significant roadblock to implementation and success. Funding is certainly a key concern, but other benefits of an EM program must be recognized and conveyed. Benefits to the accused and their families, concerns for community safety and respect for individual liberties must be an integral part of justification for the program.

**RECOMMENDATION 3: EVALUATE COSTS OF THE EM PILOT PROGRAM COMPARED TO COSTS OF PRETRIAL PRISONER HOUSING**

It will be important to closely monitor the pilot program and gather relevant statistical data to evaluate effectiveness.

- How do costs compare to incarceration rates?
- How are failure to appear rates affected?
- Is there a correlation between recidivism and pretrial release?
- What impact has the increase in workload had on court and detention staff?

This data is a necessary component of an effective analysis to determine program value.

#### **CONCLUSION 4: TECHNOLOGY CONCERNS ARE A THREAT TO EM PROGRAM EFFECTIVENESS**

Communication errors that can impact efficiency include “false” alerts for tampering and limitations with satellites for GPS devices. Landline telephones are a requirement for a radio frequency device, which is clearly a challenge for many defendants who use only cell phones. They are often required to find alternative housing arrangements that will provide a landline phone throughout the duration of their EM release.

It is also very important that the defendant fully understand equipment operation requirements. Failure to follow proper procedure can result in alert/alarm errors, creating unnecessary work for staff or vendors.

#### **RECOMMENDATION 4: ENSURE PROGRAM PARTICIPANTS UNDERSTAND EQUIPMENT OPERATION AND STRIVE TO MINIMIZE OPPORTUNITIES FOR EQUIPMENT MANIPULATION**

Appropriate training of defendants on EM release is crucial. Staff assigned to activation and placement, or the vendor providing the service, must ensure that parties have a full understanding of equipment operation, thus limiting opportunities for false alarms and other breaches.

Full understanding of equipment operation by responsible staff is necessary for obvious reasons. It is important to not only understand how the equipment works but also to understand ways in which the equipment can be manipulated. In August 2009, Missouri passed a law making tampering with electronic monitoring equipment a class C felony. Ensuring that participants are aware of this offense could provide additional incentive to comply with equipment rules of operation.

**CONCLUSION 5: EFFECTIVE COMMUNICATION AMONG ALL PROGRAM PARTIES IS CRUCIAL**

Communication among all stakeholders is always key to the success of any project. Ensuring that judges are fully informed of any and all concerns and that prosecutors and probation staff have an opportunity to contribute to discussion concerning pretrial release on any individual is vital. All parties affected must have a seat at the table to ensure an equitable program.

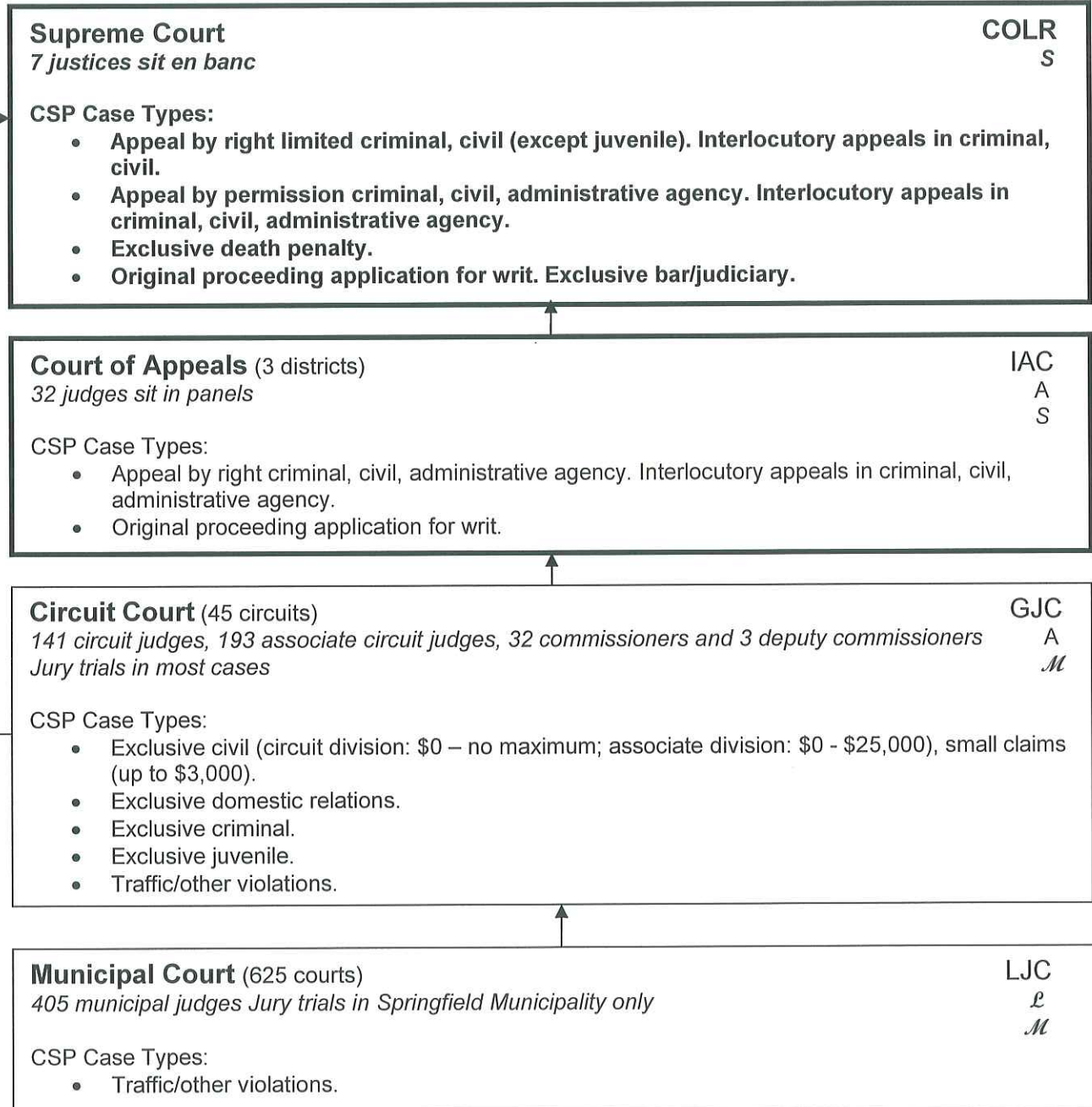
**RECOMMENDATION 5: ENSURE THAT JUDGES, COURT STAFF, PROSECUTORS, ATTORNEYS AND PROBATION STAFF SHARE INFORMATION AND COMMUNICATE EFFECTIVELY**

Throughout the term of the project, schedule regular meetings with all stakeholders to discuss progress and any problems or areas of concern. It may be necessary to make changes to process, procedures and/or forms throughout the tenure of the project as we evaluate and monitor progress. The ability to alter the plan as we move forward and learn from successes and mistakes will improve the chances for a positive outcome.

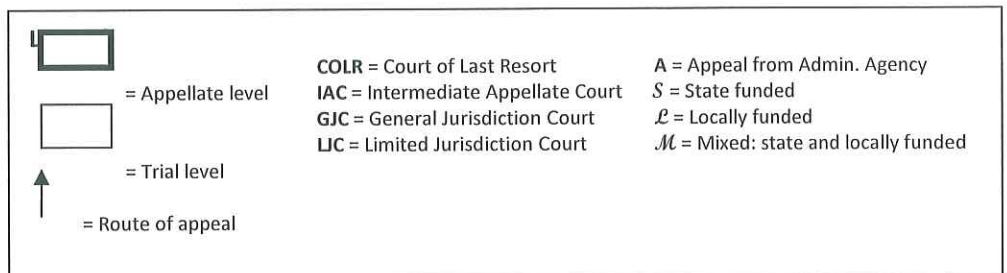


# APPENDICES

## Appendix A Missouri Court Structure



AOC Web site: [www.courts.mo.gov](http://www.courts.mo.gov)



**APPENDIX B**

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**JACKSON COUNTY DEPARTMENT OF CORRECTIONS**  
**Office of Population Control**  
1305 Locust, Kansas City, MO 64106  
**County House Arrest (CHA) Screening Form**

---

**Defendant Name/DOB:** \_\_\_\_\_ **Location:** \_\_\_\_\_  
**Case No.** \_\_\_\_\_ **Charges:** \_\_\_\_\_  
**Screened By:** \_\_\_\_\_ **Date Ordered:** \_\_\_\_\_ **Date**  
**Screened:** \_\_\_\_\_

---

.....**Outstanding Warrants/Detainers**  Yes (attach  
printout)  No  
**House Arrest History**   
Yes  No  
If yes, conduct: \_\_\_\_\_

---

**Residential Information**

**Primary Home Plan:**  
Resident's Name/Relationship: \_\_\_\_\_  
Address: \_\_\_\_\_  
Home # \_\_\_\_\_ Work # \_\_\_\_\_  
Cell # \_\_\_\_\_

Length of Time at Residence: \_\_\_\_\_  
 Leased Residence (Copy of Lease Required)  
Landlord's Name/Tele No. \_\_\_\_\_  
 Section 8 Housing  
 Defendant Not On Lease (Disallowed)  
 Defendant On Lease  
 Owned Residence (Copy of Mortgage Statement, Tax Statement of 1098 For Required)  
List All Residents In Home - Name/Relationship To Defendant/Age

\_\_\_\_\_  
\_\_\_\_\_  
Are Any of the Listed Residents Convicted Felons?  
 Yes Name/DOB: \_\_\_\_\_  
 \_\_\_\_\_  
 Violent (Disallowed)  
 Non-Violent

Does the Alleged Victim of Current Offense Live at this Residence?  
 Yes (Disallowed)  
 No

---

**Telephone Information**

If you do not have a land line phone, do you agree to have a land line phone installed?  
 Yes  
 Existing Land Line Phone  
 No (Disallowed)

If you do not have a corded phone, do you agree to purchase a corded phone?

---

**JACKSON COUNTY DEPARTMENT OF CORRECTIONS**

**Office of Population Control**

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---

**Defendant Name/DOB:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Case No.** \_\_\_\_\_

**Charges:** \_\_\_\_\_

Screened By: \_\_\_\_\_

Date Ordered: \_\_\_\_\_ Date

Screened: \_\_\_\_\_

---

- Yes
- Existing Corded Phone
- No (Disallowed)

If you have computerized features on your phone, i.e. voice mail, call waiting, call forwarding, computer/internet connection, fax machine, modem, call notes or call forwarding, do you agree to have these features removed from your phone?

- Yes
  - No Existing Computerized Features
  - No (Disallowed)
- 

**Secondary Home Plan:**

Resident's Name/Relationship: \_\_\_\_\_

Address: \_\_\_\_\_

Home # \_\_\_\_\_

Work # \_\_\_\_\_

Cell

# \_\_\_\_\_

Length of Time at Residence: \_\_\_\_\_

- Leased Residence (Copy of Lease Required)

Landlord's Name/Tele No. \_\_\_\_\_

- Section 8 Housing
  - Defendant Not On Lease (Disallowed)
  - Defendant On Lease

- Owned Residence (Copy of Mortgage Statement, Tax Statement of 1098 For Required)

List All Residents In Home - Name/Relationship To Defendant/Age

\_\_\_\_\_

\_\_\_\_\_

Are Any of the Listed Residents Convicted Felons?

- Yes Name/DOB: \_\_\_\_\_

- Violent (Disallowed)
- Non-Violent

- No

Does the Alleged Victim of Current Offense Live at this Residence?

- Yes (Disallowed)
  - No
- 

**Telephone Information**

If you do not have a land line phone, do you agree to have a land line phone installed?

- Yes
- Existing Land Line Phone

---

**JACKSON COUNTY DEPARTMENT OF CORRECTIONS**

**Office of Population Control**

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**County House Arrest (CHA) Screening Form**

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**Defendant Name/DOB:**

**Location:**

**Case No.**

**Charges:**

Screened By:

Date Ordered:    Date

Screened:

---

No (Disallowed)

If you do not have a corded phone, do you agree to purchase a corded phone?

Yes

Existing Corded Phone

No (Disallowed)

If you have computerized features on your phone, i.e. voice mail, call waiting, call forwarding, computer/internet connection, fax machine, modem, call notes or call forwarding, do you agree to have these features removed from your phone?

Yes

No Existing Computerized Features

No (Disallowed)

---

---

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---

**Defendant Name/DOB:** \_\_\_\_\_

**Location:** \_\_\_\_\_

**Case No.** \_\_\_\_\_

**Charges:** \_\_\_\_\_

Screened By: \_\_\_\_\_

Date Ordered: \_\_\_\_\_ Date

Screened: \_\_\_\_\_

---

**Employment History**

Is Defendant Currently Employed?

Yes

Employer Name \_\_\_\_\_ Tele No. \_\_\_\_\_

Supervisor Name \_\_\_\_\_ Tele No. \_\_\_\_\_

Company Address \_\_\_\_\_

Method Of Payment:

Check Frequency \_\_\_\_\_

Cash (Disallowed) \_\_\_\_\_

No

Past Two Employers:

1. Business Name and Address \_\_\_\_\_

Supervisor Name and Phone No. \_\_\_\_\_

Dates of Employment \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_

2. Business Name and Address \_\_\_\_\_

Supervisor Name and Phone No. \_\_\_\_\_

Dates of Employment \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_

---

**Agreement of Principle Resident**

*(If Resident Does Not Agree to All Conditions, Home Plan is Disqualified)*

Yes

No

Do you agree to maintain phone service at your residence for so long as the defendant is on house arrest?

Do you agree to have all computerized features removed from your phone so long as the defendant is on house arrest?

Will you allow the monitoring device to be hooked up to your home phone so that we can monitor the defendant's entry into and departure from the residence?

Do you understand that a computer will be periodically calling your residence each day to verify the whereabouts of the defendant?

If you are on the phone when the computer is attempting to verify the defendant's whereabouts, you will hear high pitched beeps on the phone. When this occurs, you will be required to discontinue your conversation to allow the computer to check on the defendant. Do you agree to abide by this requirement?

---

**JACKSON COUNTY DEPARTMENT OF CORRECTIONS**  
**Office of Population Control**  
 1305 Locust, Kansas City, MO 64106  
**County House Arrest (CHA) Screening Form**

---

**Defendant Name/DOB:**

**Location:**

**Case No.**

**Charges:**

Screened By:

Date Ordered:    Date

Screened:

---

- Do you agree to immediately advise the house arrest case manager when you become aware of any equipment problems, i.e. no dial tone on telephone, loss of power to the home?
- Do you agree to allow the house arrest supervisor access to your home to check on equipment or to retrieve equipment?
- Do you agree to return all equipment to the house arrest office once the defendant has been taken off house arrest?
- Do you agree to disconnect all equipment if requested to do so by the house arrest supervisor?

These are the basic terms and conditions of house arrest as they apply to you, your telephone and your home.

- Do you agree to the terms and conditions of the house arrest program?
- Are you agreeing to allow the defendant to reside with you for the duration of the house arrest program?

**Other Considerations**

Yes

No

- Was the defendant cooperative and courteous during the screening process?
- Does defendant have more than two disciplinary writeups while in custody?
- Was the defendant honest and straightforward during interview process?
- Does the defendant have any prior convictions for violent felonies?    If so, list case numbers and charges.
- Was the resident cooperative and courteous during the screening process?
- Was the resident honest and straightforward during the interview process?
- Did the resident provide the necessary documentation within a reasonable time?
- Was resident willing to switch phone service or have another phone line install so that the defendant can be properly monitored?    (T-Mobile and Time Warner Cable are not compatible with the house arrest equipment.)
- If no phone currently exists in the home, is the resident willing to have a phone line installed?

If the charges involve sexual misconduct with a minor:

- Are there any children under the age of 17 in the home?    (If yes, home plan is disallowed.)
- Is the residence more than 1,000 feet from any elementary school, middle school, highschool, daycare center or park?    (If yes, home plan is disallowed.)

If the current charge is alcohol related or if the defendant has two or more alcohol related contacts with law enforcement, placement on an alcohol unit will be required.

- Is the defendant charged with an alcohol related offense?
  - Has the defendant had two or more alcohol related police contacts within the last five years?
- 

**Recommendation**

Yes

No

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**JACKSON COUNTY DEPARTMENT OF CORRECTIONS**  
**Office of Population Control**  
1305 Locust, Kansas City, MO 64106  
**County House Arrest (CHA) Screening Form**

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**Defendant Name/DOB:**

**Location:**

**Case No.**

**Charges:**

Screened By:

Date Ordered:    Date

Screened:

---

               Are you recommending that the defendant be allowed to participate in the CHA?

Comments as to Acceptance or Declination:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

---

C:\Population Control\Cha2k6\CHA FORMS\Screening.Criteria.wpd

# MISSOURI JUDGES SURVEY

## 1. MUNICIPAL/ASSOCIATE CIRCUIT JUDGE SURVEY

**\* 1. Please indicate in which court you are a judge:**

- Municipal Court
- Associate Circuit Court

**\* 2. Population served**

- <10,000
- 10,000-20,000
- >20,000

**\* 3. Number of judges in your court**

- 1
- 2 - 4
- 5 or more

**4. Is your position**

- Part time
- Full time

**\* 5. Number of years on the bench**

- <1
- 1 - 3
- 4 - 7
- 8 - 15
- >15

**6. Number of case filings per year**

- <10,000
- 10,000-20,000
- >20,000



## MISSOURI JUDGES SURVEY

### 7. What probation service does your court have?

- In-house probation division
- Outside agency
- Other

### 8. How familiar are you with pretrial release electronic monitoring (EM) programs?

- Very familiar
- Somewhat familiar
- Only slightly familiar
- Not at all familiar

### 9. Are you open to considering EM for pretrial release in certain cases?

- Very open
- Somewhat open
- Only slightly open
- Not at all open

### 10. What types of cases should be eligible for EM pretrial release? (Check all that apply)

- Municipal ordinance violations
- Non-alcohol/drug only
- Traffic only
- State misdemeanor (Associate Circuit)
- Other

### 11. Should a risk assessment be performed on an offender prior to considering release?

- Yes
- No

# MISSOURI JUDGES SURVEY

**12. What questions would you want answered before considering release? (Check all that apply)**

- |   |   |
|---|---|
| <input type="checkbox"/> Age of offender                            | <input type="checkbox"/> History of drug/alcohol abuse                |
| <input type="checkbox"/> Gender                                     | <input type="checkbox"/> Prior adult incarceration                    |
| <input type="checkbox"/> Marital status                             | <input type="checkbox"/> Outside agency warrants                      |
| <input type="checkbox"/> Employment status                          | <input type="checkbox"/> Probation/parole current status              |
| <input type="checkbox"/> Length of residence in the community       | <input type="checkbox"/> Court appearance history (failure to appear) |
| <input type="checkbox"/> Prior criminal history                     | <input type="checkbox"/> Mental health history                        |
| <input type="checkbox"/> Severity of current offense                | <input type="checkbox"/> Immigration status, if applicable            |
| <input type="checkbox"/> Pending court dates in other jurisdictions |   |

**13. Would the offender's pretrial EM be a consideration when imposing sentence?**

- Yes
- No

**14. Do you believe that an EM pretrial release program is instrumental in protecting against inequality in treatment of the rich and the poor by the criminal justice system?**

- Yes
- No

**15. What do you believe are barriers to implementing an EM pretrial release program in your court?**

**16. Please comment on any thoughts you may have about the program in general.**

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