

Future of Corrections



Exploring the use of electronic monitoring

Rory Geoghegan

Foreword by Chris Miller

 @RoryGeo #tagging



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About Policy Exchange's Crime and Justice Unit

Developing smart crime policies that are cost-effective, evidence-led, and credible with the public.

- **Police reform** – Our work explores how to make the police more effective, efficient and accountable in their core mission of preventing crime and disorder. We promote new innovations and modern working practices that can help the police cope with reduced funding and the growing complexity of today's security challenges. We were the first UK think-tank to advocate democratic police governance with elected Police & Crime Commissioners and we support moves to harness technology to aid the police, and workforce reform to create a more flexible and professional service.
- **Criminal justice reform** – Our study of the criminal justice system examines how to align incentives and reduce waste so we can tackle offending and deliver swift sanctions that command public confidence. We have argued for prison reform to reduce reoffending and foster employment, and have outlined a new system of community sentences that would improve compliance and cut crime. We want to see more discretion for frontline staff and are researching new ways to build a professional court and prosecution system that is more accountable, efficient and open.
- **Localism and transparency** – We work to promote those innovative responses to crime that are owned and funded at a local level, instead of top-down, centralised initiatives. Our research explores new ways to open up the criminal justice system to new providers and to public scrutiny, to give victims and the public greater information and control and to challenge State monopolies. We have promoted transparency and new ways of opening up of data and shone a spotlight on promising local projects, including problem-solving courts, anti-gang schemes and community policing projects.

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Glossary

ANPR	Automatic Number Plate Recognition/Reader
CAM	Continuous Alcohol Monitoring
CJJI	Criminal Justice Joint Inspection
CO	Community Order
CPS	Crown Prosecution Service
DV	Domestic Violence
EM	Electronic Monitoring
GPS	Global Positioning System
HDC	Home Detention Curfew
HMIP	Her Majesty's Inspectorate of Probation
IOM	Integrated Offender Management
MAPPA	Multi-Agency Public Protection Arrangements
NAO	National Audit Office
NAPO	National Association of Probation Officers
NOMS	National Offender Management Service
PCC	Police and Crime Commissioner
PPO	Prolific and Priority Offender
RF	Radio Frequency
ROTL	Release on Temporary Licence
SSO	Suspended Sentence Order
YOT	Youth Offending Team

Foreword

This report by Policy Exchange should make for uncomfortable reading for those who have managed and delivered electronic monitoring for the past thirteen years. It should also cause those who are charged with overseeing the next round of contracts for up to £3bn of new services to take stock and rethink what they are intending to do.

Technology could offer new ways of enabling the police to prevent and detect crime. It could help the prison service to manage offenders, both within the secure estate and on their post release reintegration into the community. It could also help the probation service to manage those who pose a risk to others, and it could assist with the rehabilitation of those who want to change and whom the rest of us need to change. Indeed it should be doing all of those things.

What this report reveals however is that much of the potential of electronic monitoring to keep our communities safe has not been realised. What we have been given instead is a sclerotic, centrally controlled, top down system that has enriched two or three large suppliers, that lacks the innovation and flexibility of international comparators and that fails to demonstrate either that it is value for money or that it does anything to reduce offending.

It is not all bad news however. Policy Exchange has surveyed those working with offenders on the ground and they can see how technology could help them in their difficult task. They simply need to be able to use it as they require it rather than being compelled to use it in accordance with a set of protocols that sometimes seem to generate bureaucracy and little else of value.

Their responses to the survey do not surprise me. In my role as Head of Crime at Hertfordshire Constabulary I encouraged the trialling of a number of new ways of managing offenders through the use of new and emerging technology: GPS satellite tracking of prolific offenders, polygraph testing of internet child pornography abusers and alcohol diversion programmes for those caught drunk in public places.

In each of these instances the reaction of the responsible government department varied from incredulity to downright obstruction. The usual suspects of data protection, health and safety and human rights were lazily paraded as barriers to our attempts to innovate, get efficient and make a difference; on one occasion there were murmured threats of a judicial review. We held fast, provided the funds and carried on any way.

Each of those experiments has now proved their worth and other forces and criminal justice agencies are beginning to adopt them as they see how they help in managing offenders, reducing crime and controlling risk. In due course, local energy and innovation will improve upon these small advances, and new and better technology should come to the fore.

That is the way that it should be. Local criminal justice professionals who manage offenders on a day to day basis should be the leaders in determining who should be monitored and to what extent. The electronic monitoring that they decide upon should support their efforts to reduce the impact that offenders have on communities. Their current procedural exclusion from decision making as to how budget is apportioned, who receives a tag and what for and what happens to offenders if they commit technical or other breaches of curfews is at best a lost opportunity and at worst operational and financial lunacy.

The current government-led consultation on the future of community sentences (*Punishment and Reform: effective community sentences*) envisages an important role for technical monitoring of offenders. It is right to do so. There is a lot of exciting research going on in the UK and other laboratories world-wide into new ways of monitoring people's movement and behaviour. Some of this has obvious potential to be deployed in helping with the management of offenders and the control of crime. This technology needs space to be trialled and in due course it needs to displace the old technology upon which it improves.

The current contracting arrangements for electronic monitoring have all but squeezed innovation out of the picture and have stifled progress. Electronic tag technology used in most cases today is hardly any different from what it was in 1989, when it was first used in the UK. The future arrangements must not be allowed to continue to hold us back.

This report has forensically diagnosed the problem and explains how we have got to where we are. It offers some exciting case studies which hint at how we could deploy electronic monitoring better, and it suggests new ways of ensuring that, in the future, the bottom line that matters is crime and public safety and not that of protected monopoly suppliers. Adopting the proposals contained in this report will provide a much more efficient market and will lead to service improvements that will leave us all safer and better off.

Chris Miller

Former ACPO Lead for Electronic Monitoring (2011)

Former Assistant Chief Constable of Hertfordshire Police (2004–2011)

Executive Summary

Overview

- The electronic monitoring of offenders by way of a ‘tag’ attached to the ankle or wrist came to fruition in the 1980s. As existing technologies have developed and new technologies have emerged, the cost, quality, reliability and variety of electronic monitoring solutions have all improved.
- The evidence base in support of the use of electronic monitoring to manage offenders has historically failed to keep pace with the increased use of the technology, particularly in the United States. Agencies adopted the original home curfew (RF) technology principally as an alternative punishment as part of a court order and to reduce demand on prison places, not as a means of preventing crime or aiding the rehabilitation of offenders.
- Although well established as a sentencing option in England and Wales, the crime prevention benefits of curfew based orders, based on old RF tagging technology, are very limited. Home curfew is a substitute punishment based on restriction of liberty, but this old technology has little impact on crime and does not maximize the opportunities for rehabilitation.
- With most court orders in England and Wales scheduled to require home detention between the hours of 7pm and 7am, prolific offenders who operate during daylight hours (in particular burglars and shoplifters) can continue to commit crime unimpeded whilst wearing a tag. However, outside of England and Wales, technology and tagging use has not stood still.
- Bracelets have become smaller, smarter and more durable, with better tamper protection and battery life, and the most advanced forms are now GPS-enabled. The evolution towards effective and cheap location-based tracking with GPS brings two additional objectives – crime prevention and rehabilitation – into scope, and this is where new opportunities arise.
- Despite the limitations and the poor design and delivery of existing electronic monitoring services in England and Wales, a new procurement round with the potential to cover many tens of thousands of new and existing subjects, combined with the maturation of superior GPS tagging technology, now means that we are on the cusp of a revolution in how traditional corrections are delivered.
- The GPS tagging technology now available enables the development of a tagging regime that works: one that protects and controls offenders, but also aids them to change, because constant supervision of a wearer’s location accords with the academic evidence that certainty and swiftness of sanctions is more critical than the severity of any sanction ultimately invoked, and is therefore the best basis for behaviour change.
- In an exclusive public poll, conducted by YouGov, Policy Exchange found that three quarters of the public support tagging parolees until the end of

their sentence while nearly two thirds support the use of ankle tags for those serving a community sentence. 58% of the public, and an overwhelming majority of frontline police and probation officers would support the “comparison of the movements of offenders against crimes reported to police”.

- Our exclusive survey of police forces and probation trusts found more than 90% of police forces and 90% of probation trusts who responded, agreed that there is potential for more effective use of electronic monitoring to manage offenders.
- If the new tagging regime is well designed, avoiding a repeat of the domestic experience of high cost and poor benefits and learns the international lessons of best practice with schemes that are locally-commissioned and that empower police and probation practitioners, then there is huge potential for the UK to improve the use of tagging in the criminal justice system and recover its world-leading position in the use of electronic monitoring.
- By seizing the opportunity to create a genuine market in the provision of tagging programmes and by deploying the best technology that is integrated into offender management, then the potential benefits are significant:
 - **Practitioners** could enhance supervision and control in the community by creating smart supervision options thereby helping to reduce crime.
 - **The public** will benefit from enhanced security of existing probation schemes but at less overall cost to taxpayers through the offset of savings made in unused prison places.
 - **Offenders** themselves will receive a modern monitoring regime that maximizes the prospects for rehabilitation and targeted, bespoke support, but within the context of a robust and credible court order that deters breaches through the ever-present risk of detection.
- With police and probation involvement and direction – even if privately supplied and managed – such tagging regimes offer the basis of a smarter crime policy with a variety of sanctions that can command public confidence as a complement, or even an alternative, to a conventional prison sentence.

Failures of the old tagging regime

- England and Wales began using electronic monitoring relatively early, but since then progress has stalled. The technology being used is fundamentally the same as first deployed in 1989. This has been due to the way in which successive governments have chosen to commission the service.
- The market structure of a single buyer (the Ministry of Justice) and one or two suppliers has caused the taxpayer to pay over the odds for an inferior service. In spite of the lack of more sustained attempts to understand the value for money provided by electronic monitoring, whether conducted by the National Audit Office, HM Inspectorate Probation or the Public Accounts Committee, our analysis shows that there has been a huge opportunity cost associated with the electronic monitoring contracts in England and Wales, as evidenced by the exceptional service premium:

- A reduced price negotiated in 2006 continues to be poor value for money for the taxpayer, and the monolithic nature of large, centrally-procured contracts has locked in high costs and outdated technology.
 - Just 1 in 14 (7%) respondents to a survey of police forces and probation trusts for Policy Exchange thought a national contract delivered the best value for money.
 - In the last financial year, 2011–12, the Ministry of Justice spent more than £116m on electronic monitoring and the Home Office (and now the Ministry of Justice) has overseen a contract that means that just two private providers – Serco and G4S – are entirely responsible for service delivery, with each enjoying a monopoly position, with little or no competitive pressure, in the police force areas they serve.
 - The last 13 years have seen almost £1bn (£963m) of taxpayers' money paid to outsourced service providers, whilst excluding criminal justice practitioners from both service provision and having any meaningful say in the development and delivery of the service.
- With some 105,000 new starts and an average caseload of almost 25,000 in 2011–12, the RF electronic monitoring programme in England and Wales is the largest outside of the United States and accounts for approximately 80% of the European market. The scale of the scheme, coupled with long contracts, provides suppliers with considerable financial security. It therefore seems reasonable to assume that our core service costs should be in line with, or even below, the core service costs faced by many US agencies, however this has not been the case:
- If the service in England and Wales was delivered in line with standard practice seen in the United States, the contracts would be considerably cheaper as the service charge element (covering costs of the private suppliers' personnel) would be much smaller.
 - The differential – or service premium – between the core service (hardware, software, network) price seen in the US (£1.22 per day) and the price paid per monitored day in England and Wales (£13.14) can be identified and in 2011–12 stood at almost £12 per day. This sum scales, across the 8.9 million days of monitoring in 2011–12, to £106 million.
 - An alternative policy could have seen this service spend redirected to existing agencies so that the providers were only paid for the hardware, software and network access, with the supervision responsibility falling to offender management teams in the police and probation services. Such an approach would have seen up to £883million freed up in total to fund 2,000 probation officers or more than 1,200 police officers to work on offender management in each of the 13 years of the most recent EM contracts.
 - Even if these probation or police officers had been assigned exclusively to the management of individuals subject to electronic monitoring, the average caseload per officer would have been 12 and 20 respectively, with the added benefit that electronic monitoring would have been in the direct hands of a supervising criminal justice agency, with the aim of preventing, reducing and detecting crime and incentives to innovate and experiment, and adopt the latest practices.

- This approach to procurement and contracting has not only been costly, it has also been inefficient and ineffective by excluding probation officers (latterly offender managers), police officers and staff, and the courts themselves from involvement and direction in an ongoing tagging order or the wider development of the EM regime:

“The main issue is that electronic monitoring is not well integrated with other community sentences – it is managed separately. Therefore opportunities for using electronic monitoring more creatively are simply not there.”

Probation Trust, Policy Exchange
Electronic Monitoring Survey

- Excluding the police and probation from active management of tagging orders by handing over the management of the whole regime to the private sector contractors is a flawed policy that to this day continues to frustrate efforts to make better use of the technology, more swiftly deal with breaches, develop new approaches or address the many issues identified by previous reports on the subject.
- Research for this report revealed a history of undesirable practices within electronic monitoring in England and Wales, with alternative monitoring visits reportedly fabricated to avoid incurring financial penalties. Other issues identified include:
 - Police and probation respondents to our survey revealed a rather cooler opinion on the effectiveness of the current electronic monitoring services than the marketing literature produced by the incumbent suppliers would suggest, with 1 in 4 police forces believing the current services to be ineffective.
 - We also asked probation trusts and police forces to provide five words to describe the current electronic monitoring service. Probation trusts were, on the whole, more positive – but both police and probation used the word “limited” to describe the service, an issue that is inextricably linked to the exclusion of practitioners from electronic monitoring in England and Wales and the contracts that locked them into using outdated technology that has now been surpassed by modern GPS tagging. The police also described the service as “expensive” and “unreliable”.
 - Each and every review of electronic monitoring has consistently identified the problem that EM is not sufficiently integrated or embedded within day-to-day offender management. There has been no significant improvement nor can there be when the electronic monitoring service is contracted at a national level and wholly delivered through private agencies separate from and in no meaningful way accountable to local agencies and practitioners.
 - Engaging with the EM orders overseen by private providers is bedevilled by delay and bureaucracy, with orders and change requests involving faxes and emails. Providers have a statutory duty to cooperate with police and probation, but they are principally motivated to comply with minimum contract requirements, not to assist the authorities in finding more efficient ways of working.

- Police and probation officers do not have the ability to access or manage the existing electronic monitoring services commissioned by the Ministry of Justice. This is a cause of real frustration and is in stark contrast to the experience of probation and police officers in the United States. Even obtaining information on the compliance of an offender with a curfew proves problematic for police forces and probation trusts in England and Wales.
- While probation felt the current services were reliable, the police expressed concern. One in three forces said they did not have confidence in the reliability of the existing services enabling them to respond appropriately to breaches.
- Overall our analysis suggests that the current contracts provide poor value to the taxpayer and continuing issues around communication and the interface between agencies drive cost and weaken the ability of local criminal justice agencies to do their job.
- There is no doubt that the performance and unit cost of the service have improved since the first contracts, but there remains significant potential for improvement, and major changes are needed in the next contract period beginning in 2013 to ensure the unrealised potential for electronic monitoring is finally seized.

Opportunities of new tagging technology

- Though more expensive than conventional RF curfew-based tags, studies in America have shown some benefits from reduced recidivism and found that new GPS tags act as a useful supervision tool, reducing the likelihood of and increasing the time until breach, thereby aiding compliance. Academic research into satellite EM in the UK has been limited and in relation to the largest study, censored by the Home Office, so domestic experience is less well understood here.
- The research literature has also begun to confirm the psychological reinforcement that electronic monitoring can help provide. In essence, the wearing of a GPS device helps reinforce in the mind of the wearer the sense that if they do break the rules this will almost always be detected and punishment will follow. Because transgression can be more readily detected at any time and in most locations and shielding or tampering with GPS devices itself constitutes a breach, the risk of detection is very high.
- In both our surveys in England and Wales, and our fieldwork in the United States, practitioners made reference to this desistance effect. For those wearing a GPS tag who wanted to desist from crime and embrace rehabilitative options, the certain risk of detection if they transgressed was a powerful trigger and often led to positive behaviour change in a way that an old curfew tag did not. In some cases, offenders not required to wear such a device nonetheless volunteered to wear a GPS locator to help them turn away from crime, as it gave them a credible excuse to desist and a way of resisting peer pressure, thus allowing those ready to end old habits to do so.

- Furthermore, the crime prevention potential of EM satellite tags is significant. While electronic monitoring is not infallible and cannot provide the same degree of incapacitation as a custodial sentence, it can, when incorporated within broader offender management programmes, be seen as helping accelerate desistance from crime, aiding compliance with other community sentence requirements and providing police with another valuable tool to control offenders in the community and to detect criminal activity.
- Even the most advanced forms of electronic monitoring with GPS and close supervision are less costly than a prison sentence, and while such a direct comparison is simplistic, it highlights a potential area of savings to the taxpayer when effectively used on appropriate offender groups that would otherwise face a short prison term that may not do much to alter their behaviour post-release.

Limitations of the new technology

- Like all new forms of technology, GPS tags have their limitations; they are not a silver bullet. As a result, it is important for policymakers, legislators, practitioners and the public to understand that electronic monitoring is not the virtual prison or prison without walls that politicians and others have sometimes claimed it to be. It is better understood as an additional tool for improving the management and control of offenders in the community.
- Some of the limitations with electronic monitoring and satellite tracking are often glossed over by those formulating policy and in the media coverage that accompanies any announcements. If the potential for GPS technology is to be fully maximized, unrealistic expectations will need to be quashed, not least to prevent the public from developing unreasonable assumptions about what “live” location-based monitoring can actually achieve. For instance, an expectation that criminal justice practitioners react instantly to all transgressions and eliminate all criminality by an offender wearing a GPS tag simply cannot be met.
- This means ensuring that contracting arrangements allow and provide incentives for the use of new, improving and more cost-effective technologies and ensuring offenders who seek to jam or interfere with their device face an appropriate set of sanctions. We have sought to develop the policy proposals in this report in light of these very real and largely unavoidable limitations on electronic monitoring.

Flaws in the proposed tagging procurement

- A consensus among the police forces surveyed who had experience of working with pilot GPS technology, was that applying the current service delivery model for RF – in which an external private company is contracted to manage the tagging regime and monitor the offender – to new GPS orders would be a mistake.
- This desire for a different approach was no doubt shaped by their experience and success in developing Integrated Offender Management and PPO schemes, where bespoke conditions and smart, flexible supervision is required.

- However, for a number of reasons, our research has concluded that the upcoming national EM programme in England and Wales – the largest single scheme in the world – is, on current plans, fundamentally flawed:
 - Not only does the new procurement envisage ongoing ownership of the tagging service by an outsourced provider, but it is seeking to contract with several providers on a national scale in an un-tested way that is replicated in no other jurisdiction.
 - Instead of creating a market for competitive services that are procured by many buyers, thereby helping to drive down costs and stimulate innovation, the Ministry of Justice is offering a contract arrangement following a one-off tender that risks cementing the market position of existing service providers on a national scale.
 - Dividing the national contract into vertical functional (rather than regional) lots – although designed to divide the spoils and allow some flexibility around new technology as it becomes available – is likely to create a poorly functioning marketplace with a national service divided between suppliers, with weak accountability for performance and no external competition.
 - The Ministry of Justice – in line with the Coalition government’s own stated principles of open public services and localism – should be looking to create competition, i.e. a competitive market for electronic monitoring. Instead, by their own admission, they are looking at running a *one-off* competition
 - The approach to procurement and contracting has given rise to a market structure that can today be best described as a duopoly on the supply side and monopsony (single buyer) on the demand side, with the current procurement process set to maintain the monopsony and appoint a national monopoly for up to nine years.
 - During our field research we shared the Ministry of Justice’s approach to procurement with a large number of vendors, independent subject matter experts and supervising agencies who, with only one exception, concluded that the procurement had major flaws.
 - Given the lack of innovation seen over the last 13 years, where there have been two or three suppliers each with a regional monopoly, it seems implausible to expect a national monopoly to be any more interested or incentivised to encourage and respond to innovation and creativity.
 - The exclusion of criminal justice practitioners from the service delivery also removes a vital feedback loop. With the contracting parties essentially limited to the service providers and central government, there is no direct mechanism by which the frontline can either feedback experiences or, more crucially, hold the providers to account or require improvements to the service.
- If unrevised, the current procurement round, worth up to £3bn, promises to further cement the monopolistic and monopsonistic market structure that has been centrally cultivated, with procurement mistakes of the last 13 years being repeated. In pursuing this course, the lessons from mature markets and the voices of experienced practitioners have been ignored.

- Unless the current procurement offering is altered radically, regardless of which companies secure each element of the contract, it will deliver another decade of wasted opportunities, with high costs and inflexibility, and a tagging regime that will hinder the police and criminal justice agencies from using new GPS technology to dramatically aid rehabilitation and prevent crime.

Correcting past mistakes and seizing opportunities

- There is widespread recognition that the potential of electronic monitoring has not and is not being realised. However, if policy is altered and the procurement process amended, then there is great potential for the improved use of electronic monitoring in England and Wales to reduce crime, aid rehabilitation, and save prison resources.
- This is a view shared by practitioners, with our survey of practitioners finding that 90% of police and probation trusts agree there is potential for more effective use. Practitioners were also keen to make use of electronic monitoring and technology within mainstream offender management to prevent and detect crime and to aid rehabilitation.
- If practitioners are to have these freedoms to innovate and to make the difference that they signed up to, then the central government monopoly over electronic monitoring needs to be broken. There has been considerable interest in the current procurement, so it seems perverse to then close the market as soon as the winners have been appointed.
- We believe the commissioning of tagging should be:
 - **Devolved to Police and Crime Commissioners**, with local areas able – once PCCs are elected – to opt-out of the Ministry of Justice provision and secure their own arrangements, taking the budget for those services with them and augmenting it if they choose to expand the use of EM in their area.
 - **Procured locally and integrated**, so each area would have a single supplier offering a full suite of EM services, but with the software accessible to the police and probation to oversee and, for certain cohorts, direct the monitoring.
- This bottom-up approach would best guarantee the development of a real market in electronic monitoring services that would encourage innovation, mainstream the latest technology more quickly, and allow the integration of EM – especially GPS tagging – within mainstream offender management. It would also best guarantee a better deal for taxpayers and safer communities.
- For the best use of GPS to be achieved it is important that practitioners be involved in the design, development and operation of the programmes. It is inappropriate for the Ministry of Justice to foist GPS-based monitoring services with long contractual obligations – specified by civil servants in Whitehall – onto local areas.
- A strategy to expand the use of EM to maximise the crime reduction potential of GPS monitoring and transdermal alcohol and drug testing would need to account for the costs of any roll-out. Given resource constraints, the use of

electronic monitoring (in the form of a combined RF and GPS unit) could be targeted on the population of offenders that commit the most crime and the most harm.

Potential new uses of tagging

- Our own field visits in England, Scotland and the United States for this report, along with desk-based research, has shown that there is considerable potential for greater and more effective use of electronic monitoring across the criminal justice system and in relation to particular segments of the offender population. This is echoed by respondents to our electronic monitoring survey who reported:

“The current use of electronic monitoring has not kept pace with technological advances and the system that is used focuses on the processes involved, not on the outcomes that it is intended to achieve.”

Police Force, Policy Exchange Electronic Monitoring Survey

“The current electronic monitoring system does not meet the needs of sentencers. In presentations, both judges and magistrates have stated how they want something that they can use effectively for different situations.”

Police Force, Policy Exchange Electronic Monitoring Survey

- There was a common recognition that GPS tracking had the most potential for new opportunities, with many suggesting some quick-wins that would come from widespread use of GPS to an existing population of known offenders.
- There was also a strong view that both the prevention and detection of crime would be served by comparing the location of the most prolific and highest-risk offenders against reported crime data and that this would aid detection, speed up responses, and reduce wasteful allocation of resources. The police were especially strong advocates of this use of EM and were clear that it would aid the crime reduction efforts of their offender management teams.
- Probation trusts involved in the original GPS pilots in England and Wales identified “considerable benefits” from tracking offenders and analysing their movements, though there were some concerns raised that this might be “used to ‘fish’ for offenders who have been in the vicinity of crimes”.
- Police interviewees said that crime scene correlation – in which the locations of reported crime are overlaid on a daily basis against offenders’ movements – should be a key feature of new programmes. This would help ensure offenders can be quickly arrested for any crimes they have committed, or are suspected of having committed. Equally important is having their non-involvement in crime acknowledged and affirmed, with their historical movements available as an alibi.
- The logical way to realise the crime reduction potential of location-based EM would be for offenders’ GPS tags to be directly linked to police emergency response and crime recording systems. This way, when a crime in progress is reported by a member of the public, the police control room could check the current movements of GPS-tracked offenders so that the guilty can be captured and the innocent exonerated straight away.

- Other innovations that borrow from practice in the United States could include offender-pay models to help encourage responsibility and offset some of the hardware costs of tagging units – although only voluntary opt-in programmes could lawfully require the wearer to pay part of the costs at this time. Our exclusive public poll on electronic monitoring found that 40% of the public supported the idea of requiring offenders to contribute towards the cost of their tag. A near identical proportion (39%) supported requiring offenders to pay a refundable deposit for the equipment.
- Some new uses of EM that were proffered by police and criminal justice professionals included:
 - Ensuring the most extensive coverage of the Prolific Priority Offender (PPO) population by allowing prison governors to specify licence conditions that include RF and GPS monitoring;
 - Allowing courts and sentencers to include GPS monitoring as part of the existing regime of community orders (a form of enhanced “curfew” component).
 - Some practitioners felt that there should be an option for PPOs – outside of any statutory framework – to be offered RF and GPS tags to monitor them in the community on a voluntary, opt-in basis.
 - GPS tracking of potentially active offenders would offer smart and dynamic supervision and enforcement that was speedy and certain.
 - Some suggested that GPS tags could be employed in pre-trial settings, either as an enhanced form of court bail that would encourage less use of remand, or as a selective option for the police in some cases where suspects on police bail might be a flight risk, although this would require legal approval.
- Based on these propositions, research for this report (see Appendix A) explored the possible scale of a new EM regime in England and Wales, were it to cover some new categories of offender plus an expansion of those already subject to the existing tagging regime. Based on assumptions about how sentencers might use the technology and what policy was being pursued, this modelling showed the expansion of EM over 5–6 years could be sizeable:
 - A “low” scenario would envisage an expanded use of GPS-enabled tags to apply to prolific priority offenders (PPOs) and the most serious-risk nominals enrolled in the MAPPAs regime, resulting in a 40–50% increase in total caseloads and an additional 11,000 offenders being electronically monitored (a total of 36,000).
 - A “medium” scenario would see over 51,000 additional wearers at any one time, with EM extended to ex-prisoners on licence under Home Detention Curfew, along with more use pre-trial and GPS-tags being overlaid onto some suspended sentence orders.
 - A “high” scenario would see over 140,000 on an EM order at any one time (an increase of 115,000 on today), if the schemes were extended even more widely, to cover additional offenders on licence from prison and more suspended sentences.

- As the costs and quality of the technology improve over the next decade, the range of cases where GPS tags might be used could be expected to increase even further, leading to a wholesale revolution in the criminal justice system in England and Wales and potentially less reliance on prison.
- The consequent impact on the demand for prison places could be substantial, with the costs of an EM expansion more than offset by the savings made from a reduced prison population.
- To that end, an expansion of tagging would go a long way to helping the Coalition government to meet its strategic objective to “stabilize” the prison population by 2015. Net expenditure would also be reduced if the services were commissioned in a way that delivered the best price. Even when split among locally commissioned lots, the combined impact of such a large upscaling of EM use would itself help drive down unit costs and service charges in the marketplace.

Recommendations

The following are the key conclusions from the research into electronic monitoring and the ways to achieve more effective use of tagging in the criminal justice landscape:

- **More debate is needed about the scope and potential of tagging and recognition of past failures.** As practitioners are broadly supportive of using EM more effectively and potentially expanding its use, and the newest technology offers new options for sentencers and offender managers, a public debate is needed about what the expansion of EM might realistically achieve and at what cost, given the failures and shortcomings of the past. The lessons from existing tagging contracts, in particular the drawbacks of overly complex and poorly specified contracts with centralized procurement, need to be learned.
- **Expansion demands more scrutiny and transparency over costs and procurement.** There are sufficient grounds for an inquiry into the cost effectiveness of the current tender for the new national electronic monitoring contract. The level of current and proposed public expenditure on tagging warrants greater scrutiny and transparency to help ensure taxpayers, practitioners, and offenders get the best value from the service. Tender prices should be visible, with contracts published for public scrutiny.
- **Allow for more voluntary programmes and pilots to aid understanding.** Aside from any new commissioning of compulsory tagging regimes, voluntary opt-in programmes can help avoid potential legal obstacles in the use of GPS and transdermal tagging technology in pre-trial settings. It is important that government does not prevent agencies from either offering voluntary programmes to offenders or from seeking to run their own trials or pilots on a voluntary basis. The Ministry of Justice should also be required to identify, for repeal or revocation, any legislation or policies that prevent local areas from developing their own voluntary programmes and publish the findings for consultation pending their repeal or revocation. Provision should be made for opt-in electronic monitoring pilots to be operated on an

offender-pay model, including a refundable deposit element, with a view to seeking legal clarity on whether compulsory tagging orders might also recover some of their costs in future via co-payment by the wearer.

- **Involve practitioners and encourage more users.** Given the variety of uses on offer, the electronic monitoring of offenders should not be seen as the sole preserve of any one agency or external service provider, and the information and insight that it can provide on offender behaviour should be readily accessible to those agencies and individuals with a legitimate interest in the prevention and detection of crime and disorder and the rehabilitation of offenders. In particular, it should be readily accessible, with self-service functionality, to police and probation practitioners in the relevant supervising agencies.
- **Give the police a much greater say in the use of electronic monitoring.** Police forces are often best placed to judge the level of harm an offender poses to the community through their offending. The police should therefore have an integral role in making recommendations to sentencers and prison governors on the most effective use of electronic monitoring to prevent and detect crime as part of sentences or licence conditions.
- **Ensure electronic monitoring data is accessible to multiple agencies.** This will ensure the most value is realized from the monitoring while also providing the opportunity for innovative approaches, including crime scene correlation. This would help ensure swift and certain justice through increased risk and speed of detection. New contracts should provide for open-access to the monitoring software for the relevant local authorities.
- **Address risks to scheme integrity by reducing complexity.** The government should recognise that private providers can help improve efficiency and raise performance, but they can be motivated by a desire to maximise revenue – and ultimately profit. Where the delivery model and contracts are poorly specified, contractors can end up “meeting the contract but missing the point”, as the Joint Inspectorates have concluded. This must be at the front of mind as the Ministry of Justice and government more widely pursues the policy of Payment by Results.
- **Target finite resources for GPS tagging on an expansion that offers the biggest crime reduction benefit.** Full study should be made of the crime reduction benefits of GPS tags in the UK context. At a minimum, it would seem wise for police forces and other local agencies to trial technology in relation to PPO offenders, and also MAPPA-eligible offenders, both across supervision levels and offender categories. If England and Wales were to follow the approach of many states in the United States to the electronic monitoring of registered sex offenders, it is reasonable to expect more than 40,000 MAPPA nominals to be subject to a GPS tag.

Therefore the Ministry of Justice should:

- **Focus on supporting the development of a market.** If the potential of electronic monitoring is to be realised and if the criminal justice agencies are to secure the best value and service, then radical changes are required to create a real market, in which electronic monitoring is commissioned locally. Market

leaders, in terms of both suppliers and customers, should be provided with the freedom to design, develop and contract services that work for and address their local priorities and needs.

- **Recognise the speed of technological innovation in the EM space and move to shorter, more flexible contracts.** Tagging contracts signed at local or national level should seek to replicate the standard practice in the USA of short contracts with annual options to renew. This would help keep suppliers focused on delivering a quality service, while providing agencies with the ability to drop those suppliers who fail to deliver.
- **Terminate the current flawed procurement process, and roll over the existing arrangements for one year to allow time to revise the tender.** As a new procurement round cannot be retendered and completed before 31 March 2012, existing contracts should roll over for another year and the procurement should be postponed with a new start date of 1 April 2014.
- **Revise the tender and localize procurement.** Use the opportunity provided by the arrival of elected Police and Crime Commissioners in November 2012 to devolve commissioning responsibility to PCCs and create a local market. Rather than rushing into another ill-fated and stifling national contract, this more radical approach would provide local areas with the freedom to innovate and develop solutions that work for them.
- **Give PCCs the right to opt-out of any national scheme** and use the assigned budgets for EM to commission (or co-commission with neighbouring areas), their own services. In future, elected Police & Crime Commissioners should have the right to opt-out of a national tagging framework and instead control the funding to commission electronic monitoring services locally. The amount available would vary depending on the police force area and the size of the current tagged population. The local commissioning of electronic monitoring should also allow PCCs and local agencies to decide whether to extend the use of electronic monitoring to offenders earlier in their career, before they reach their peak age of offending as PPOs.
- **Focus on developing and publishing open standards** for electronic monitoring and helping share best practice and new evaluations of EM trials. The National Institute of Justice recently published draft standards for electronic monitoring in order to help support the market that has developed. These standards are not over-prescriptive and are voluntary. Rather than stifling the market by imposing national contracts for extended periods of time, the Ministry of Justice should instead seek to support local areas by developing voluntary open standards.
- **Free local areas from statutory barriers to innovation.** Government should make the necessary legislative changes to ensure that criminal justice practitioners at a local level are free to commission and develop their own electronic monitoring programmes, even if only ones based on voluntary participation at this stage.

Part One

Introduction to Tagging

“The critical challenge will be to learn how to take advantage of new technological opportunities while minimizing their threats”

National Institute of Justice

Correctional services in England and Wales are typically thought of in terms of custodial and non-custodial options, with sadly little attention given to the opportunities afforded by new and existing technology to help support correctional services.

The criminal justice system of England and Wales was at the forefront of electronic monitoring in the late 1980s, but has since slipped back. There is now an opportunity to make up for lost time, but it will take a radical shift in policy to achieve.

Emerging technologies include electronic and location monitoring, together with pharmacological treatment and genetic and neurobiological risk assessment. This paper focuses on the opportunities afforded by both new and existing electronic monitoring technologies.

1

Beyond Custody

The rising cost of correctional services in the UK, the United States and other developed countries, combined with fiscal constraints, is creating pressure to lower prison populations and moderate demand on corrections. The cost of traditional custody is also stimulating new thinking about how technological innovation and other approaches can provide smart ways to monitor and restrict the movement of offenders in the community that protect the public but at lower cost.

New technology developed in the private sector offers new ways of enhancing traditional disposals, and in some cases presents entirely new sentencing options for courts. Satellite tagging of individuals in the community, bespoke curfew requirements and automatic, biometric testing for intoxicants are all technology-driven ways of creating robust disposals that protect the public and restrict liberty, without the need for a prison cell.

Although there will remain a need for traditional custody to punish and incapacitate the most violent and prolific offenders, in the decade ahead, smart technology will offer a host of new community-based disposals enabling those agencies which monitor offenders to impose more precise conditions on probationers and to control their activity at lower cost. Technology can also offer victims and witnesses additional protection by monitoring the location and movements of offenders.

In the near future, progress in pharmacological treatments and genetic and neurobiological risk assessments may offer entirely new criminal sentencing disposals for courts, but will give rise to arguments around the ethics and legal protections governing the use of such approaches. As the National Institute of Justice in the United States has acknowledged: “The critical challenge will be to learn how to take advantage of new technological opportunities while minimizing their threats.”¹

Three emerging technologies have been cited as likely to change the face of sentencing and corrections by 2030:

- electronic tracking and location-based monitoring systems,
- pharmacological treatment, and
- genetic or neuro-biologic risk assessment²

This paper seeks to look at the most readily available and most mature of these three technologies, electronic monitoring, to understand how the criminal justice system in England and Wales might make better and more effective use of this technology to protect the public and rehabilitate offenders.

¹ <https://www.ncjrs.gov/txtfiles1/nij/181411.txt>

² Blumstein, Fabelo, Horn, Lehman, Tacha, & Petersilia, 2001, p.5

2

Evolution of Electronic Monitoring

Overview

The electronic monitoring of offenders by way of a ‘tag’ attached to the ankle or wrist came to fruition in the 1980s. On both sides of the Atlantic, individuals were exploring how radio frequency (RF) technologies, emerging at the time, could be applied to the supervision of offenders.

In the UK, a paper was submitted to the Home Office in 1981, by a group that later became the Offender’s Tag Association, proposing the use of mobile telephone (cellular) signals to monitor the location of offenders as a means of improving supervision in the community and serving as an alternative to prison for some offenders.³

However, it was in the USA, in 1983, that the first court-ordered use of electronic monitoring (EM) is believed to have taken place. Judge Jack Love, of Albuquerque, New Mexico, is reported to have been inspired by a storyline in an edition of the *Spiderman* comic, in which the villain places an electronic bracelet on the superhero, allowing his movements to be tracked. Judge Love approached a local technologist who set about developing the first radio-frequency tag and home monitoring box, marking the first commercially-available home curfew package.

Over time, as existing technologies have matured and new technologies have emerged, the cost, quality, reliability and variety of electronic monitoring solutions have all improved. A number of key technologies, aided by miniaturization, have been instrumental in enabling the creation of new electronic monitoring propositions.

Box 2.1: An overview of the EM Technologies

- **Radio Frequency (RF)** technology allows for a tag to be attached to an offender, usually on the ankle, and to communicate with a base station providing the means by which an offender can be required to stay within a certain distance from the base station – typically a box installed in a house that communicates via a static landline.
- **Biometrics** refers to the identification of humans by unique biological characteristics, such as finger prints, voice prints, DNA, iris scans or some combination. As these methods have been developed, technology providers have created portable or semi-portable devices that can use these methods to authenticate the identity of an individual.

³ <http://www.offenderstag.co.uk/News.htm>

- **Satellite Tracking** (commonly known as GPS tracking) technology makes use of satellite networks, typically the US-managed Global Positioning System network, to locate, to within a few metres, offenders who wear a tag similar in appearance to that of the RF tag, with location data uploaded at regular intervals.
- **Cellular/Mobile Phone Technology** has allowed the development of so-called 'Assisted GPS' (A-GPS) and the use of Wi-Fi positioning systems and mobile phone tower (cell-site) triangulation, improving the speed with which a fix can be obtained and allowing battery-hungry processing to be off-loaded from the tag to data centre-based servers. The integration of cellular technology also allows data to be transmitted in real-time or near real-time, without the need for the offender to connect their device to a docking station or have a landline connection.
- **Hydrogen Fuel Cells** have provided the core technology allowing transdermal alcohol devices on the ankle to reliably and continuously monitor the alcohol levels in individuals over an extended period of time, overcoming some of the earlier limitations borne of short battery life.

Each of these technologies has, of course, seen wider application beyond electronic monitoring, providing component manufacturers with large markets over which to derive economies of scale and to help fund further research and development, enabling the further miniaturization of the technologies, in turn driving down cost and enabling a wider set of use cases. In short, in the last ten years, EM tags or bracelets have become smaller, smarter and more durable, with better tamper protection and battery life and more features to aid those monitoring the wearer.

Uses of EM in the criminal justice system in England and Wales

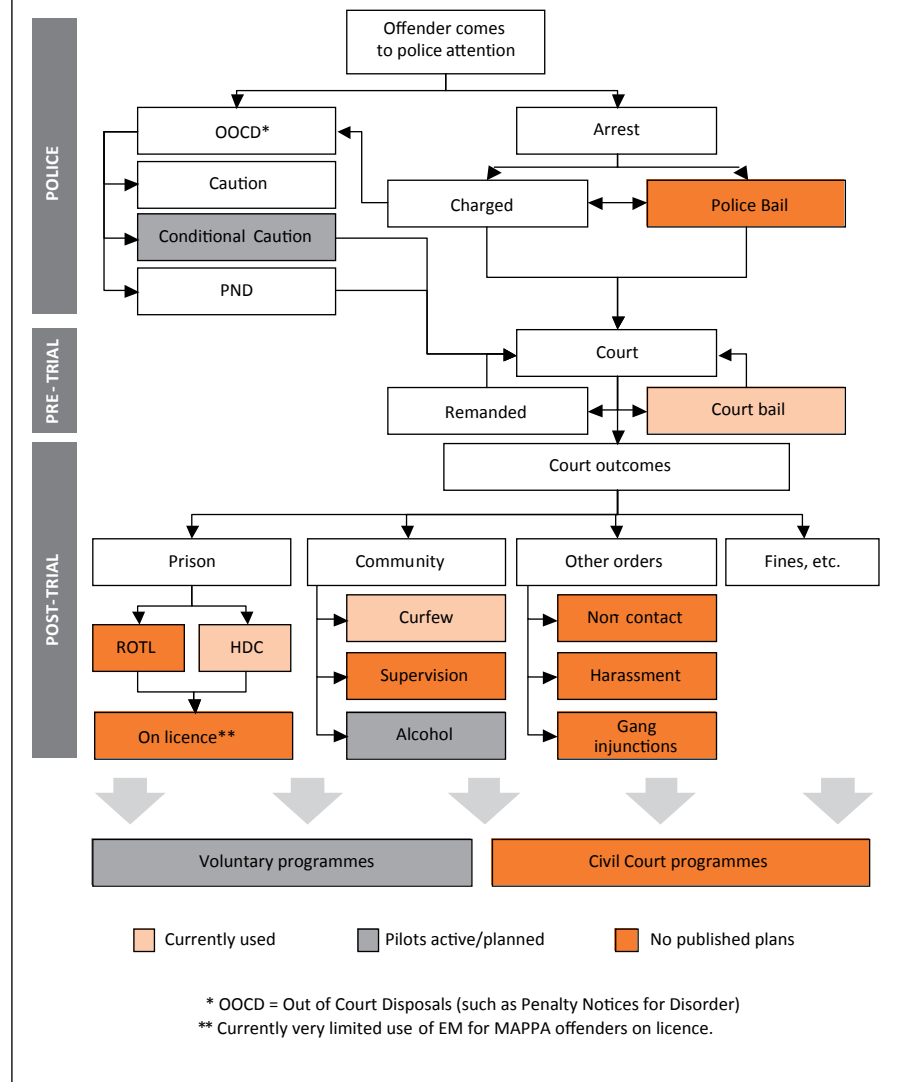
The chart below provides an overview of the criminal justice system in England and Wales, detailing where electronic monitoring is currently being used, where it is expected to be piloted, and other areas that EM can be used but where there have been no published plans in England and Wales.

EM is currently used in a limited number of discrete areas in the criminal justice process – all of them post-charge and all of them relating to a court order (bail condition, standalone punishment or as a component in a community sentence order) or a statutory home detention regime linked to custody for convicted offenders released early. There has been no expansion in the use of EM beyond these discrete areas since the current national contracts were initiated in the late 1990s.⁴

In advance of the new national contract for EM due to start in April 2013, a number of police forces and probation trusts are operating very small scale pilots of the latest GPS tagging technology, with the permission of the Ministry of Justice, though they are reliant on voluntary enrolment by the offender. Learning is emerging from these pilots, but they are small in scale and will soon be crowded out by the new national contract. Other jurisdictions use EM more extensively in pre-trial settings like police bail, and in a number of alternative ways for those under civil injunctions or enrolled on community corrections programmes.

⁴ With the exception of GPS tags applied as part of curfew orders for those under the Control Order, now the Terrorism Prevention and Investigation Measures (TPIMs), counter-terrorism supervision regime <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120709/debtext/120709-0001.htm>

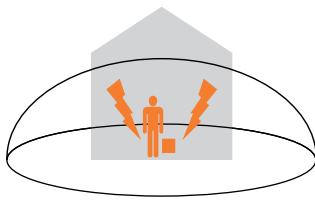
Figure 2.1: Opportunities for electronic monitoring of offenders in the criminal justice system



From radio frequency to satellite tracking

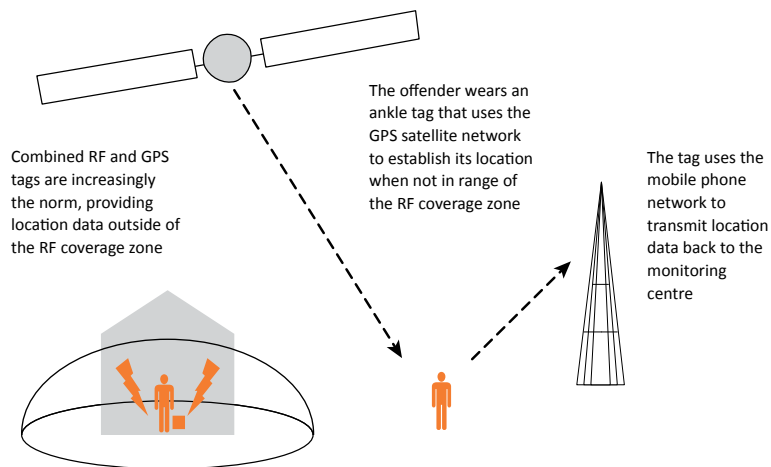
In the 1990s, the initial use of electronic monitoring via radio frequency (RF) technology was to create a form of house arrest or home detention (as part of a curfew order), with a view to reducing the pressure on the prison population. This form of electronic monitoring involves a tag, or personal identification device (PID), worn by the offender, usually on an ankle, and the installation of a radio box, or monitoring unit (MU), in their home.

RF technology is primarily associated with the use of curfews, house arrest or home-detention. It simply seeks to establish whether or not an offender is within range of the monitoring unit. This binary form of monitoring has obvious limitations, since the technology does not allow authorities to know where the offender is when they are not within range of the monitoring unit.

Figure 2.2: Radio frequency – home detention and curfews

The offender wears an ankle tag and has a home monitoring unit that emits a radio signal covering their home. If the offender leaves the coverage area an alert is generated. The technology cannot determine where an individual is outside of the coverage zone.

The completion of the United States' Global Positioning Satellite (GPS) network in 1994 enabled the development of more sophisticated location-based electronic monitoring services. This technology allows for the location of a tag to be identified anywhere on the earth's surface, provided the tag is able to get a fix on the GPS network. This location data can then be transmitted back to the monitoring centre via the mobile phone network.

Figure 2.3: Satellite tracking and combined RF/GPS tags

Combined RF and GPS tags are increasingly the norm, providing location data outside of the RF coverage zone

The offender wears an ankle tag that uses the GPS satellite network to establish its location when not in range of the RF coverage zone

The tag uses the mobile phone network to transmit location data back to the monitoring centre

Assisted GPS now also makes use of the mobile phone network to help it get a fix on the GPS network. This aids the so-called 'time to first acquisition'. This technology is considered a must-have for GPS devices as it provides better accuracy and can also help improve battery life. When no GPS signal is available, an approximate location can be triangulated based on mobile phone towers. Combined RF/GPS tags are increasingly common, allowing GPS devices to communicate with home monitoring units, sometimes known as RF beacons, that might be installed in a probation office, treatment centre, a workplace or the offender's home address.

Box 2.2: Diary of a wearer

As part of the research for this report, we were provided with a GPS tracking device by Buddi, a small business based in Aylesbury, that provides personal safety and electronic monitoring technology in the health and criminal justice markets in England and Wales.

The tag took just a few minutes to fit, with a strap akin to a small rubber car seatbelt, and was smaller than other devices on the market we had seen in the USA. Initially, though incredibly conscious of the presence of a device on my ankle that could track my movements, after a few hours the presence of the device on my ankle went unnoticed (though the knowledge that it was tracking my every move remained).

Having heard stories about offenders having to charge the device for several hours, attached to a wall socket, every day, it was pleasantly surprising to find that the device could be charged remotely through the use of a lightweight supplementary battery pack and that with a one hour daily top-up charge, there was no need to be tethered to a wall socket for hours on end.

The device went entirely unnoticed, beneath my trouser leg. Not wearing shorts seemed a small price to pay for what could be an alternative to custody or some other inconvenience. I made a deliberate effort to show the device to a number of people, and while friends were intrigued by the new addition to my ankle, those with no or limited knowledge of my work appeared more concerned than intrigued.

The supplier provided us with access to online web-based reporting of our movements. The device revealed itself to be incredibly effective at tracking movement (though the usual caveats associated with any GPS device applied), and the integrated RF technology helped ensure improved performance and battery life indoors.

I did my best to try to remove the device, short of using any tools, but failed to do so – though the device was sophisticated enough to register these tampering attempts. I had also created alerts relating to the battery level of the device and a number of inclusion and exclusion zones around my neighbourhood. When these were breached, as both offender and EM supervisor (for the purposes of this induction), I was notified immediately via both SMS and email.

By the end of the fortnight “on tag”, my colleague and I concluded that the technology performed well, and the self-service facilities provided by the software could be of real benefit to both offender managers and other law enforcement officers.

Rory Geoghegan, June 2012

Evidence base for electronic monitoring

The evidence base to support the use of electronic monitoring to manage offenders has historically failed to keep pace with the increased use of the technology, particularly in the United States. The publication of Florida State University’s assessment of electronic monitoring in January 2010 provided, for the first time, an independently-funded, analysis of the impact electronic monitoring can have on offender management.⁵

The study, funded by the National Institute of Justice (NIJ), compared 5,034 medium- and high-risk offenders on electronic monitoring with almost 267,000 medium- and high-risk offenders being managed without electronic monitoring.⁶ The quantitative analysis showed electronic monitoring reduced the

5 <http://www.criminologycenter.fsu.edu/p/pdf/EM%20Evaluation%20Final%20Report%20for%20NIJ.pdf>

6 <https://www.ncjrs.gov/pdffiles1/nij/234460.pdf>

offenders' risk of failure to comply with the programme and/or commit new crime by 31%. The analysis also found that GPS monitoring results in 6% fewer supervision failures compared to RF technology. The study was extensive – across offence and supervision types – and was able to conclude that all offence groups, types of offenders and age groups experienced fewer violations with EM, but that the effect was reduced for violent offenders.

The criminological evidence also points towards the importance of risk of detection and swiftness of sanction, rather than the severity, in relation to deterrence theory. This has been seen in a range of enforcement programmes such as the HOPE probation programme in Hawaii, the Cease-Fire gang intervention scheme in Boston and the tackling of squeegee-men and subway vandals in New York.⁷ This is also backed by the research carried out by the State of Florida's Office of Program Analysis & Government Accountability, which reported that Florida's Department of Corrections "evaluated electronic monitoring and found it effective in deterring crime".⁸

A recently published evaluation of California's GPS-based High Risk Sex Offender programme found that offenders on GPS showed "significantly better outcomes for both compliance and recidivism".⁹ The evaluation found that GPS acts as a useful supervision tool, reducing the likelihood and increasing the time until events such as return to prison. The evaluation did identify an uplift in cost of approximately \$8.51 (£5.50) per day over traditional supervision, as a result of the GPS equipment cost. Further work is required to establish the overall cost-effectiveness when set against prison.

Research in England and Wales, particularly in relation to satellite tracking of offenders, has been poor. The Home Office commissioned an evaluation of the Satellite Tracking Pilots in 2004–06, produced by Professor Stephen Shute, but it has never been published. Instead, only a 12-page summary of the evaluation has been published by the Ministry of Justice.¹⁰ The full evaluation included more than 292 semi-structured interviews with offenders and staff from across the criminal justice system. It is disappointing and a loss to the public policy debate that the full research has never been published.

The research literature has also begun to explore the psychological reinforcement that electronic monitoring can help provide. In essence, the wearing of a tag, such as a GPS device, helps reinforce in the mind of the wearer the sense that if they do break the rules this will be detected and punishment will follow.¹¹ In our police and probation surveys in England and Wales, and our fieldwork in the United States, practitioners made reference to this effect:

"Anecdotally I understand some prolific offenders have voluntarily been fitted with GPS devices and have found this to be a way of resisting the temptation to commit crime with others"

Probation Trust, Policy Exchange Electronic Monitoring Survey

While electronic monitoring is not infallible and does not provide the same degree of incapacitation as a custodial sentence, it can, when incorporated within broader offender management programmes, be seen as helping accelerate desistance from crime, aiding compliance with other community sentence requirements and providing police with another valuable tool in the fight against crime. It is also important to recognise that electronic monitoring is less costly

⁷ Professor Mark Kleiman's *When Brute Force Fails* (2009) provides analysis of how it is possible to create focused zero tolerance approaches, with clearly specified rules followed by the swift and certain delivery of promised sanctions when those rules are broken, and how these regimes can be more effective and cheaper than traditional responses.

⁸ <http://www.oppaga.state.fl.us/reports/pdf/0742rpt.pdf>

⁹ <https://www.ncjrs.gov/pdffiles1/nij/grants/238481.pdf>

¹⁰ <http://webarchive.nationalarchives.gov.uk/20090215213612/http://www.justice.gov.uk/docs/satellite-tracking-of-offenders.pdf>

¹¹ http://www.justice.gouv.fr/art_pix/StephenShute.pdf

than a prison sentence.¹² While such a comparison is simplistic, it highlights a potential area of savings to the taxpayer when effectively used on appropriate offender groups that would otherwise face a prison term.¹³

Limitations of electronic monitoring

It is important to recognise that all technology has limitations, and even the latest generation of GPS chipsets cannot be expected to provide a precise location fix all of the time. Similarly, electronic monitoring can be defeated: offenders can attempt to shield their device, or cut the strap that secures the tag to their body.¹⁴ As a result, it is important for policymakers, legislators, practitioners and the public to understand that electronic monitoring is not the virtual prison or prison without walls that politicians and others often claim it to be. It is better understood as an additional tool for improving the management of offenders in the community.

Box 2.3: Setting unrealistic expectations

David Blunkett, as Home Secretary from 2001 to 2004, drove the introduction of satellite tracking pilots with a fanfare of publicity across national broadsheet and tabloid media, announcing the use of satellite tracking as “prison without bars”.¹⁵

To present the satellite-tracking technology as a “prison without bars” certainly generated media headlines, but failed to recognise the limitations of the technology. The fact that no roll-out of the technology followed the pilots is testament to the reality that GPS satellite-tracking does not come close to Blunkett’s depiction as a “prison without walls”, and in the early 2000s, when the technology was expensive and in its infancy – with short battery life and poor network reliability – it was a triumph of politics over policy to assert that the means now existed to incapacitate criminals in the community to the same extent afforded by prison. Even now, GPS tags do not offer that potential and it set unrealistic expectations among the public and the media for the Home Secretary at the time to claim otherwise.¹⁶

12 The National Audit Office compared the costs of 90 days in custody with the costs of 90 days on RF monitored curfew (cost: £1300), and found curfews to be approximately £5,200 cheaper than 90 days in custody (cost: £6,500).

13 We explore the issue of cost-effectiveness and value for money in [Chapter 3].

14 It is worth noting that while offenders can remove their tag, the most robust designs still require a concerted effort. For example, some units on the market contain a steel core cable, and the technology is increasingly sophisticated in being able to determine when a tag is removed or tampered with, or attempts are made to jam or shield the device, allowing supervising agencies to be notified.

15 <http://news.bbc.co.uk/1/hi/uk/3906625.stm>

16 <http://www.independent.co.uk/news/uk/crime/spy-in-the-sky-tracks-persistent-offenders-558194.html>

Some of the limitations with electronic monitoring and satellite tracking are often glossed over by those formulating policy and in the media coverage that accompanies any announcements. These limitations must be recognised and policy should be developed, as far as possible, to both recognise and help mitigate these factors.

For example, ensuring that contracting arrangements allow and provide incentives for the use of new, improving and more cost-effective technologies; and ensuring offenders who seek to jam or interfere with their device face an appropriate set of sanctions. We have sought to develop the policy proposals in this report in light of these very real and largely unavoidable limitations on electronic monitoring.

If the potential for GPS technology is to be fully maximized, unrealistic expectations will need to be quashed, not least to prevent the public from developing unreasonable assumptions about what “live” location-based monitoring can actually achieve. For instance, an expectation that criminal justice practitioners react instantly to all transgressions and eliminate all criminality by an offender wearing a GPS tag simply cannot be met.

Box 2.4: Limitations of electronic monitoring

- Offenders can (with varying degrees of difficulty) remove the monitoring tag (although this constitutes a breach that, in most jurisdictions, equates to a jail break);¹⁷
- Like any measurement technology, EM is not perfect. Issues like GPS drift and margins of error will always exist;
- Offenders can neglect to keep their unit charged, causing monitoring to fail (this itself is a breach of an order's conditions);
- Jamming and shielding the signals used by the units is possible (although not without alerting the supervisor);
- EM is most successful when integrated within offender management, making integration with all supervising agencies – including the police – crucial;
- EM can generate vast quantities of data that can provide valuable insights but also risks overloading supervising agencies;
- EM can identify breaches that previously went undetected, driving costs rather than reducing them, especially if the process for dealing with a breach is lengthy, bureaucratic and lacks the confidence of supervisors, offenders and the public.

¹⁷ This article provides a conceptual overview of the limitations on the accuracy of GPS systems. Improving technologies have managed to improve accuracy, such as the use of omnidirectional antenna. <http://gauss.gge.unb.ca/gpsworld/EarlyInnovationColumns/Innov.1990.03-04.pdf>

Part Two

Tagging: Past and Present

“It’s a crazy way of doing things, I’ve never seen anything like it”

Electronic monitoring vendor on
Ministry of Justice’s procurement plans

England and Wales began using electronic monitoring relatively early, but since then progress has stilled, and the technology being used is fundamentally the same to that first deployed in 1989.

The last 13 years have seen almost £1bn (£963m) of taxpayers’ money paid to outsourced service providers, denying criminal justice practitioners involvement in the service delivery and any meaningful say in the design and development of the service.

If the service in England and Wales was procured in line with standard practices seen in the United States, frontline police and probation would be involved in the service, and up to £883m could have been used to fund 2,000 probation staff or more than 1,200 police officers to work on offender management in each of the 13 years.

The current procurement round, worth up to £3bn, will appoint just one national provider for up to nine years, cementing the monopolistic market structure that central government has cultivated. The procurement mistakes of the last 13 years are being repeated, with lessons from mature markets and the voices of experienced practitioners ignored.

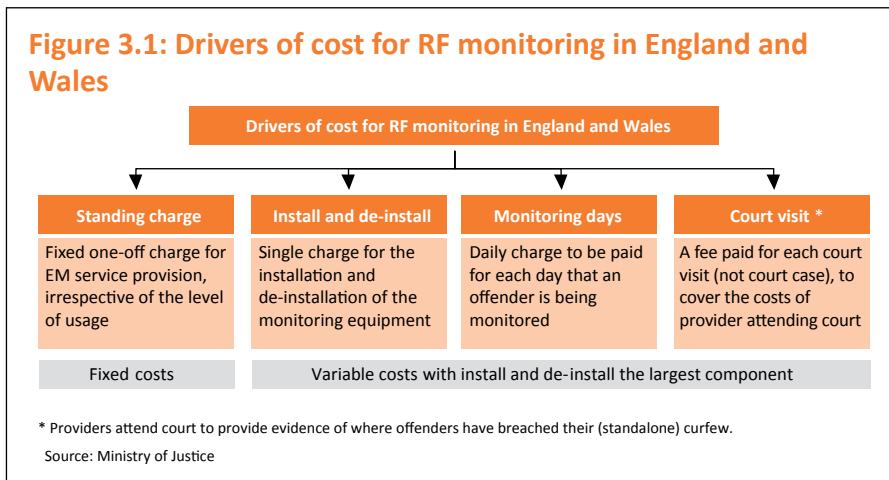
3

Overcharged and Under-Delivered

The market structure that has developed in England and Wales, coupled with poor procurement, has caused the taxpayer to pay more than necessary for an inferior service. In the last financial year, 2011–12, the Ministry of Justice spent more than £116m on electronic monitoring, and since 1999 the cumulative spend has been in excess of £950m. This level of expenditure warrants greater scrutiny and transparency to help ensure taxpayers, practitioners, and offenders get the best value from the service.

Drivers and trends in the cost of electronic monitoring

The fees paid to electronic monitoring providers in England and Wales are driven by a number of factors, including a standing charge, install and de-install fees, the number of monitoring days and fees for court visits. The specific fee levels have never been disclosed or published by the Ministry of Justice, though it is understood from discussions with those involved in electronic monitoring that the different charges paid to the two incumbent providers are not set at the same level.



Expenditure on electronic monitoring has been driven by changes in both volume and price. The bulk of the cost is believed to lie in the install and de-install of the unit, making the number of new starts a major driver of overall costs and creating a revenue and profit-enhancing incentive for suppliers to accrue as many installations and removals as possible.

Figure 3.2: Expenditure on electronic monitoring 1999/00–2011/12

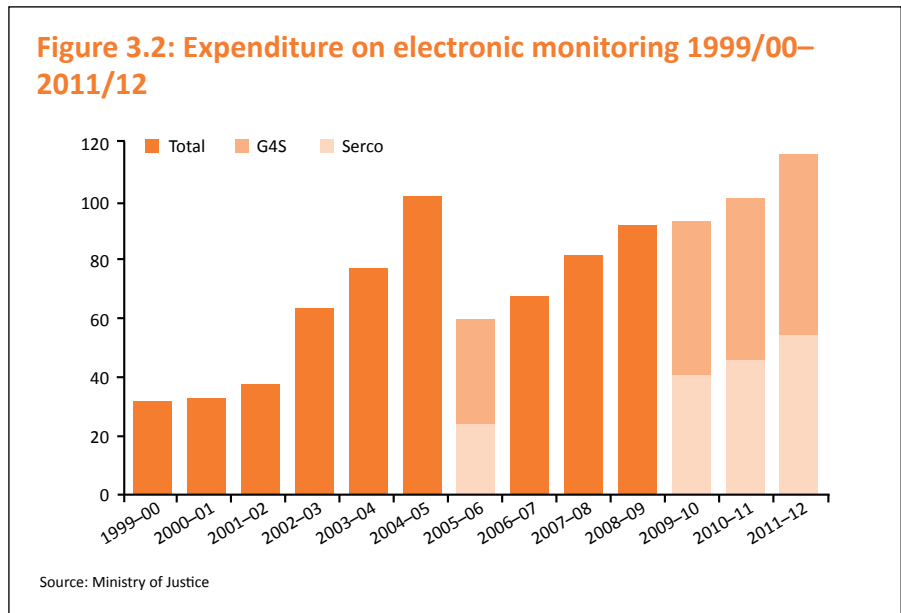
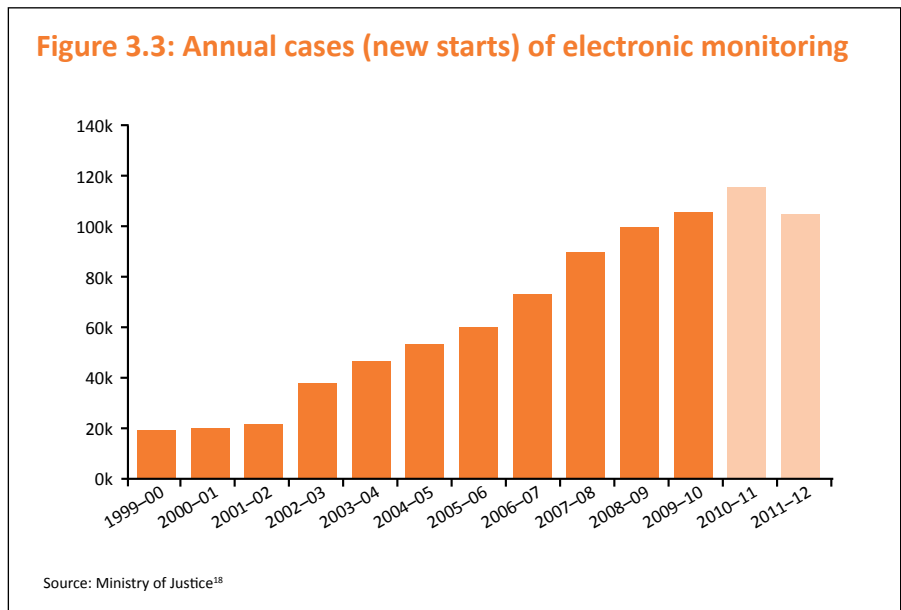


Figure 3.2 shows how expenditure on electronic monitoring has grown over time, with particularly strong growth in the latter half of the first contract period up to 2004–05. Over the last 13 years, the government has spent a total of £961 million on electronic monitoring under this arrangement, with the annual spend for the last full year totalling some £116 million.

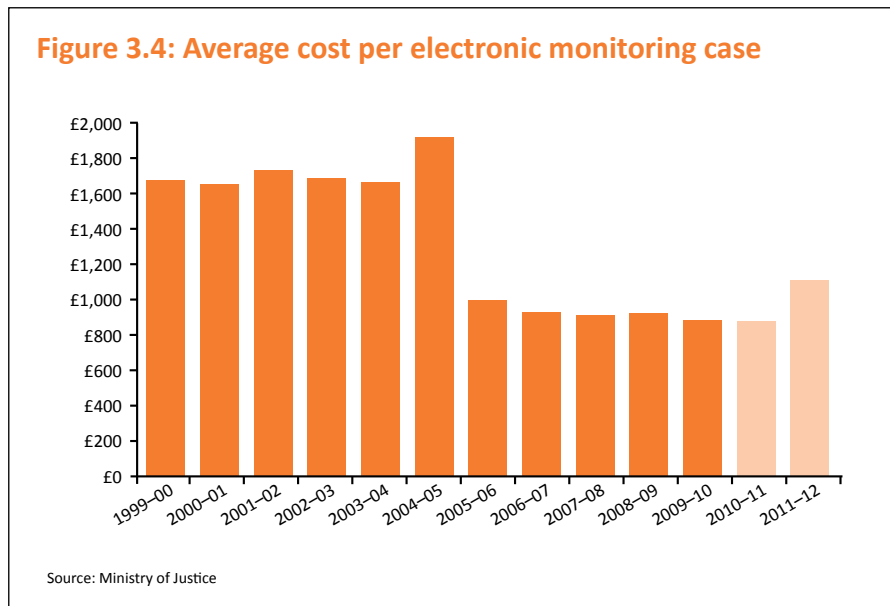
Figure 3.3: Annual cases (new starts) of electronic monitoring



¹⁸ New starts in 2010–11 and 2011–12 cannot be compared directly to previous years as before October 2010 extensions of pre-trial curfews (e.g. when a monitored defendant attended court and was re-bailed) were classed as new starts, whereas afterwards they were not. This caused an apparent fall in Pre-trial new starts.

In an attempt to secure further efficiencies in recent years, the Ministry of Justice made changes to the guidance and policy around individuals tagged on bail. Individuals on bail would, prior to October 2010, have had their tag removed the night before their court appearance. At court the following day, if the individual was then required to go back on a tag or was re-bailed on tag, then a new ‘case’ would be created, and a new installation and de-installation fee

would be earned by the service providers. This policy was apparently based on untested legal advice obtained by the government. The change in policy caused the apparent fall in pre-trial new starts shown above.



The average cost per electronic monitoring case has been fairly stable, although an approximate reduction of 40% was achieved through re-tendering between 2004–05 and 2005–06.¹⁹ The effect of the price reduction achieved can be clearly seen in the chart above. Rather than expressing concern at the apparent poor value that had been received in the six previous years, the Public Accounts Committee commended the renegotiation and asked that the Home Office team responsible for the negotiations should “produce a good practice guide to disseminate lessons learned”²⁰

Unfortunately, the report into lessons learned provides scant insight to how the savings were achieved, instead it reveals procurement and contracting failures, such as the process by which incumbent suppliers are removed, with the Home Office log concluding:

“Exit arrangements in the current contract are ambiguous and inadequate. This caused a time-consuming and expensive dispute with an incumbent supplier who lost the contract to a competitor in the recent procurement.”²¹

The log also reveals poorly specified service levels and reporting requirements, with “experience from the EM project” showing that “if service levels are not understood until after contracts are signed this leaves the buyer of a service in a poor negotiating position”.²² The other result, that goes unmentioned, is that in the case of EM, the taxpayer has been left paying more for a worse service and the public have been put at unnecessary additional risk, because the old – and very limited – RF technology remained the only game in town.

19 Written Answers to Various Parliamentary Questions

20 <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmpubacc/997/997.pdf>

21 Home Office, Electronic Monitoring Lessons Learned Log (Redacted and Released under FOIA)

22 Home Office, Electronic Monitoring Lessons Learned Log (Redacted and Released under FOIA)

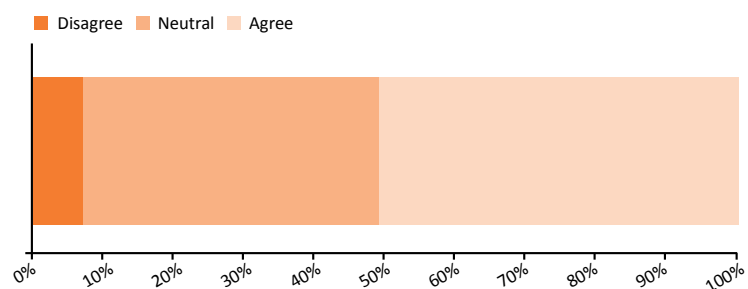
Box 3.1: Case study – Marian Bates Serious Case Review

Marian Bates was murdered by a teenager, Peter Williams, who was subject to electronic monitoring.²³ Her murder prompted a serious case review by HM Inspectorate of Probation.²⁴ The report identified a number of serious shortcomings with the electronic monitoring service:

- “[T]he electronic monitoring company, monitored the curfew requirement and identified several occasions when Peter Williams appeared to be in violation of his curfew, but did not notify the YOT of any of these violations until the morning of 30 September 2003.”
- “neither of Premier’s explanations of its understanding of the Home Office’s statement of operational requirements for electronic monitoring were satisfactory. In particular its view, given in writing, that there was no requirement, other than in HDC cases, to inform the supervising office of ‘negative’ results from ‘random alternative monitoring’, implies that a curfew becomes a meaningless exercise other than in HDC cases.”
- “The Home Office’s statement of operational requirements for electronic monitoring did not clearly or adequately define the necessary actions for monitoring curfews in the ‘stand alone mode’.”
- “We have found significant inconsistencies in the interpretation of the operational requirements for electronic monitoring, and the establishment and implementation of the monitoring arrangements which need to be addressed. There is currently no plan for an independent inspection of electronic monitoring.”²⁵

To better understand the verdict of practitioners on the current EM contract and the RF technology that underpins it, Policy Exchange surveyed the views of EM leads in police forces and probation areas. Even after the 40% reduction in average unit cost that was achieved at the start of the most recent contract in 2006, our survey of probation areas and police forces reveals that just 1 in 14 (7%) of practitioners surveyed believe that national contracting delivers the best service and value. Half (51%) of respondents believe a better service and greater value can be achieved from locally agreed contracts.

Figure 3.5: “We could secure a better service and greater value from electronic monitoring if the contracts were agreed at a local level rather than by central government” (Probation Trusts and Police Combined)”



Source: Policy Exchange Electronic Monitoring Survey

23 <http://www.guardian.co.uk/society/2005/sep/19/crime.law>

24 <http://webarchive.nationalarchives.gov.uk/20100512215321/http://www.justice.gov.uk/inspectors/hmi-probation/docs/peterwilliamsenquiry-rps%281%29.pdf>

25 <http://webarchive.nationalarchives.gov.uk/20100512215321/http://www.justice.gov.uk/inspectors/hmi-probation/docs/peterwilliamsenquiry-rps%281%29.pdf>

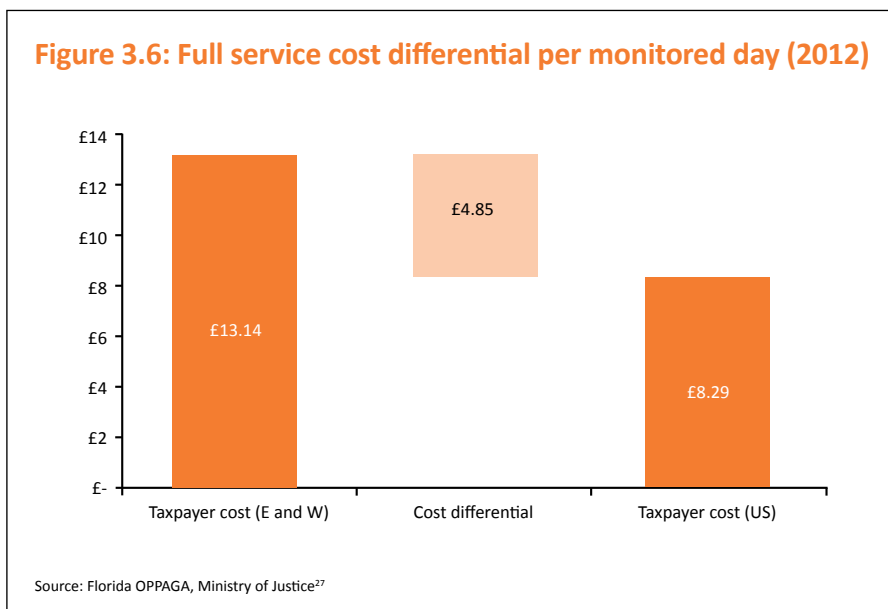
Cost and service comparison with the United States

The pricing model in England and Wales differs significantly from that seen in the United States, where fees are driven purely by the number of monitoring days. This fee covers the rental cost of the tag and monitoring unit, any mobile/cellular network data usage and the cost of the monitoring software. The table below provides an overview of the cost and feature differentials of RF curfew contracts in the USA and England and Wales.

Table 3.1: Typical RF monitoring cost and feature comparison (2011–12)

	England and Wales full service	USA full service	USA core service
	England and Wales	USA (Florida)*	USA
Per day cost	£13.14	£8.29	£1.22
Annual Cost	£4,796	£3,026	£445
Core			
Hardware	✓	✓	✓
Software	✓	✓	✓
Network service	✓	✓	✓
Premium			
Installation	✓	✓	X
Removal	✓	✓	X
Court visits and enforcement	✓	✓	X
Offender contact centre	✓	✓	X
Standing charge	✓	n/a	n/a

* Collected by Florida Department of Corrections in 2004 comprising core service costs plus additional officer workload.²⁶
Per day figure (\$11.00) is inflated to 2012 US prices (\$13.34) and converted into UK Pounds Sterling
Source: Ministry of Justice, National Institute of Justice, Florida OPPAGA, Policy Exchange US Fieldwork



A comparison of the full RF/curfew-based electronic monitoring service costs suggests a cost differential of up to £4.85 per monitored day, suggesting that the same service in England and Wales costs 59% more than in the United States. This

²⁶ <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0519rpt.pdf>

²⁷ <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0519rpt.pdf>

means that of the £117 million spent on electronic monitoring in England and Wales in 2011–12, up to £43 million is accounted for by the cost differential.

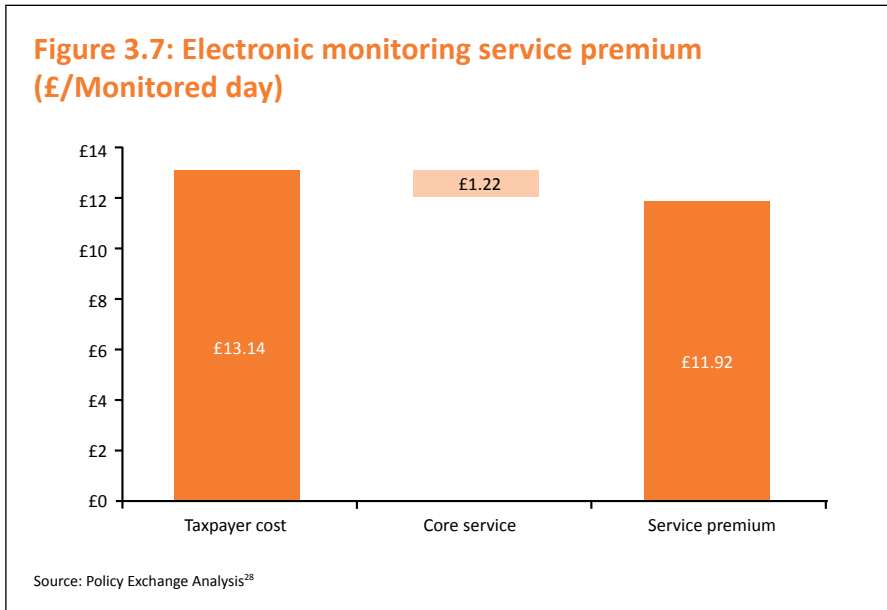
In the United States, the installation and removal of the tag, court visits and enforcement are all typically carried out by the supervising agencies' own staff, as part of routine supervision appointments, rather than outsourced agents. While this requires dedicated time from existing police and parole staff, practitioners consider it a good opportunity to have face-to-face, human interaction with offenders. Similarly, court visits and so-called "breach packs" are prepared by the supervising agency, and the supervising agency is the contact point for any offenders who have queries about the tag. This additional work, carried out by the supervising agency in the US, is typically integrated and embedded within business as usual and combined with other activity, such as assessments and supervision appointments. Based on the apparent cost differential of £4.85 per monitored day, the integration of electronic monitoring within day-to-day practitioner-led offender management also appears more cost-effective than the approach taken in England and Wales.

Box 3.2: Electronic monitoring embedded within offender management

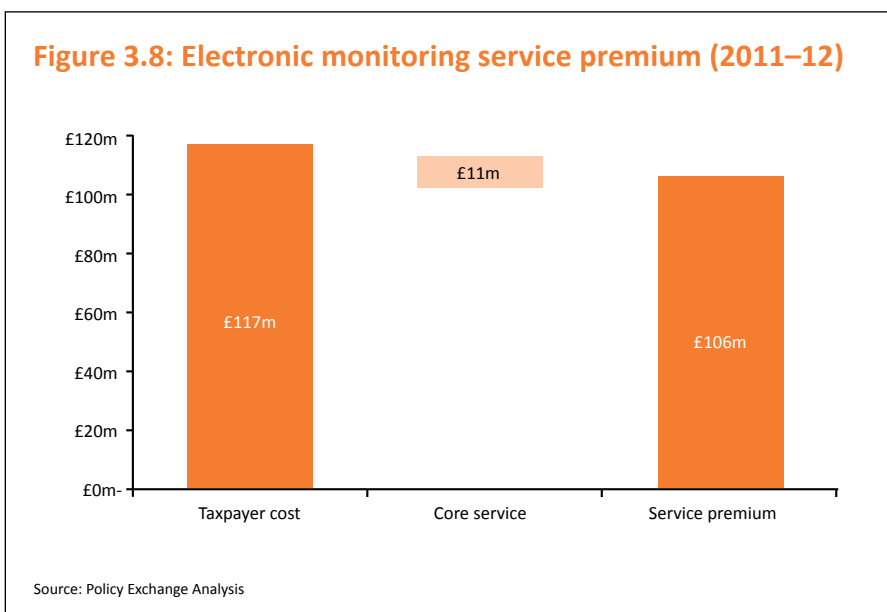
From his office in Montgomery County, Maryland's Pre-Release Centre, a 45 minute drive from Washington DC, Ben Stevenson is able to track and review the location histories of the offenders on his caseload. He can create inclusion and exclusion zones, amend the home address and any curfew of the offender, there and then, with no need to fax or email requests to the vendor or wait hours or even days to have the requests actioned. Ben can send messages to offenders, asking them to call him if he feels their behaviour or location is a cause for concern and has the ability to switch between street map, satellite map or hybrid views of the offender's location.

This example of practitioners empowered and able to make changes in a dynamic and discretionary way is typical of the approach taken towards electronic monitoring in local jurisdictions in the United States. It has helped drive the more creative use of EM by criminal justice practitioners, giving them the freedom to achieve the best possible results. The self-service approach allows offender managers to focus on getting the job done, rather than having to either chase distant suppliers or, perhaps worse, having to put up with an inflexible and limiting arrangement that is convenient for the supplier but creates compliance costs, bureaucracy and delay for practitioners on the frontline.

With some 105,000 new starts and an average caseload of almost 25,000 in 2011–12, the RF electronic monitoring programme in England and Wales is the largest outside of the United States and accounts for approximately 80% of the European market. The scale of the scheme, coupled with long contracts, provides suppliers with considerable financial security. It therefore seems reasonable to assume that our core service costs should be in line with, or even below, the core service costs faced by many US agencies (£1.22) that typically have caseloads in the tens or hundreds, rather than tens of thousands. Based on this, it is possible to estimate what proportion of total taxpayer costs in England and Wales are accounted for by the service premium.

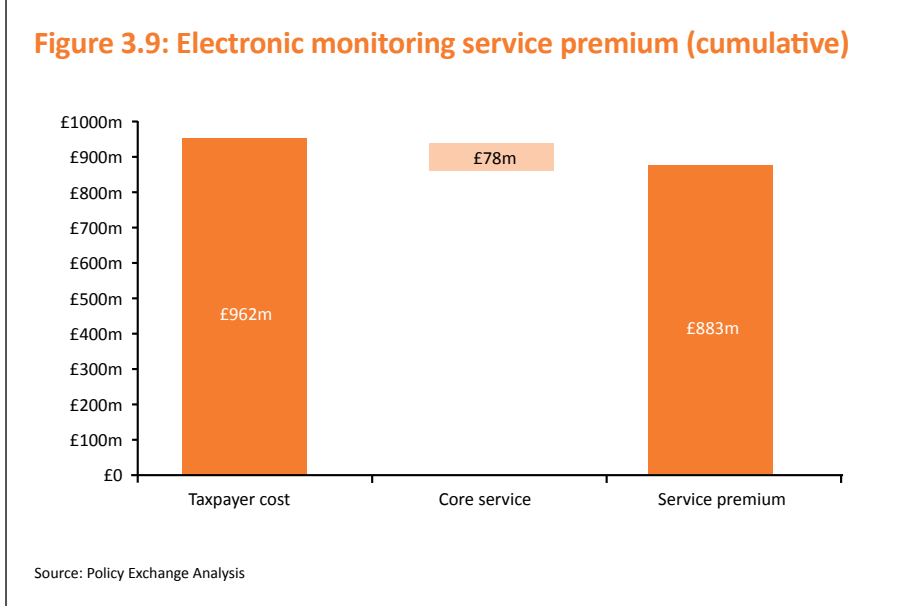


The service premium per monitored day in England and Wales can therefore be identified and in 2011–12 stood at almost £12 per day. An unknown proportion of this will be taken as profit margin by the incumbent suppliers in England and Wales. The service premium scales, across the 8.9 million days of monitoring in 2011–12, to £106 million.



Setting the total service premium for 2011–12 against the number of offenders (new starts), gives a service premium of more than £1,000 per offender (new start) in 2011–12. This is £1,000 per offender that currently goes to private suppliers that could go towards embedding electronic monitoring within offender management.

²⁸ Due to the absence of transparency on the pricing of electronic monitoring services provided in England and Wales, it is only possible to estimate the service premium by reference to the core service costs in the United States. Using a combination of Ministry of Justice, National Institute of Justice, US agency vendor costs, incumbent provider annual reports and financial market information it is possible to estimate the service premium. The costs all relate to RF-based home detention/curfew technology.



Using historical figures, the service premium accounts for £883 million (92%) of the £962 million spent on electronic monitoring since 1999. It is not possible to estimate the profit margin achieved by suppliers on the electronic monitoring contracts, however at least one incumbent described the “very strong margin performance” of electronic monitoring in a presentation to investors.²⁹

The fully outsourced service premium represents an opportunity cost. The funds could have been used to better effect the integration of electronic monitoring within offender management in both policing and probation. The service premium over 13 years averages £68m per year. This equates to the equivalent of 2,000 probation officers or 1,200 additional police officers employed as outlined in the table below.

Table 3.2: Service premium spend expressed in police and probation officer terms

	Probation officer	Police officer
Average annual labour cost	£34,000 ³⁰	£56,000 ³¹
Service premium could pay for	2,000 officers	1,210 officers
Daily EM caseload ³²	23,475	23,475
Caseload per officer	11.7	20.3

Source: Ministry of Justice, Policy Exchange calculations

29 <http://www.g4s.com/~media/Files/Financial%20Presentations/Preliminary%20Results%20Presentation%20-%20year%20ended%2031%20Dec%2004.ashx>

30 Using figures from the final Consolidated Probation Boards Accounts, covering the year 2009–10, the average probation trust employee had total employment costs of £34,000 per annum.

31 <http://www.policyexchange.org.uk/images/publications/cost%20of%20the%20cops%20-%20sep%2011.pdf>

32 The daily EM caseload is the average number of offenders on electronic monitoring on each day in 2011–12.

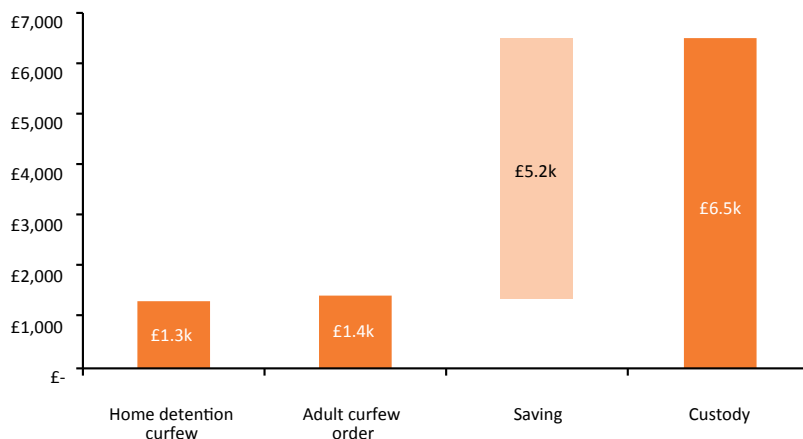
Furthermore, even if these probation or police officers were assigned exclusively to the management of individuals subject to electronic monitoring, the average caseloads would be 12 and 20 respectively, with the added benefit that electronic monitoring would be in the direct hands of a supervising criminal justice agency, with the aim of preventing, reducing and detecting crime and incentives to innovate and experiment.

Since 1999 a number of government reports have examined the provision of electronic monitoring in England and Wales, highlighting a number of flaws and problems. In 2006, the National Audit Office (NAO) published a Value for Money report examining the electronic monitoring of offenders.

Box 3.3: Missing the point and the wrong comparison

The NAO's Value for Money report on the electronic monitoring of offenders failed to thoroughly assess or explore the cost effectiveness and economics of electronic monitoring in England and Wales. No international comparisons were made relating to the costs of the service, with the argument over cost-effectiveness confined to a credible, but simplistic comparison of costs for 90 days on an RF curfew and 90 days in custody.

Figure 3.10: NAO comparison of 90-day curfew and custody costs (2006)



Source: NAO³³

The comparison, indicating a saving of £5,200, is relevant for discussion of the use of curfews in court bail where the offender might otherwise have been remanded in custody and in relation to the use of EM in relation to home detention curfews, since the alternative would be the provision of a custodial place.

The report made no attempt to establish whether the costs of electronic monitoring were reasonable, nor did the report seek to compare costs or delivery models with electronic monitoring schemes in other jurisdictions. Disappointingly, the report based its assessment of the value for money of EM by comparing the cost with a custodial place:

“The electronic monitoring of offenders provides overall value for money ... Electronically monitored curfews are considerably cheaper than custody”³⁴

In spite of the lack of more sustained attempts to understand the value for money provided by electronic monitoring, whether conducted by the National Audit Office, HM Inspectorate Probation or the Public Accounts Committee, our analysis shows that there has been a huge opportunity cost associated with

33 <http://www.nao.org.uk/idoc.ashx?docId=16d92eab-b94c-4704-b8d9-16277262f81d&version=-1>

34 <http://www.nao.org.uk/idoc.ashx?docId=16d92eab-b94c-4704-b8d9-16277262f81d&version=-1>

the electronic monitoring contracts in England and Wales, as evidenced by the exceptional service premium of almost £900m.

The new procurement process due to conclude in 2012 for a start date of 1 April 2013, looks set to award contracts worth up to £3bn, with the service premium accounting for an enormous £2.3bn over the life of the contract.³⁵ This equates to a service premium of as much as £255million each and every year. If England and Wales were to adopt the operating model and approach of agencies in the US for the new procurement, the service premium could instead fund more than 7,500 probation officers or 4,500 police officers.

Meeting the contract but missing the point

In 2008 a joint inspection of electronically monitored curfew requirements, orders and licences was published. The report, *A Complicated Business*, concluded that the system of electronic monitoring in England and Wales is “meeting the contract but missing the point”³⁶, with “a missed opportunity to integrate electronically monitored curfews into mainstream offender management practice”³⁷ and that EM currently operates as “something of an anomaly within the National Offender Management Service”.³⁸

In June 2012, Her Majesty’s Inspectorate of Probation (HMIP) published a follow-up report to *A Complicated Business*, this time calling the report *It’s Complicated*. The report found that many of the challenges identified in the 2008 inspection had gone unrectified, not least the extent to which there is a mismatch between what the public and sentencers expect from curfews and what is delivered by the providers.

Our own research has also revealed a history of undesirable practices within electronic monitoring in England and Wales, issues which have only rarely been touched on by either the NAO or any other public body.

Box 3.4: Gaming the system to enhance revenue and avoid penalties

Over the last 13 years, a number of practices within the electronic monitoring providers have been exposed, typically by whistle-blowers or former employees. The ability to game the system has in large part been aided by the extent to which electronic monitoring has been outsourced and the extremely limited visibility practitioners and contract managers have of the live systems operated by the suppliers.

One former field monitoring officer explained how “[control centre] staff on occasions would request that MM [alternative monitoring visits] were fabricated so as to avoid a financial penalty being accrued”.³⁹ Other examples of gaming include a strong incentive on the part of the service provider to boost revenue by carrying out as many install and de-installs as possible.

The lessons from EM, in particular the drawbacks of overly complex and poorly specified contracts, need to be learned. It also needs to be recognised that providers, motivated by a desire to maximise revenue – and ultimately profit – will respond to the incentives and constraints imposed by any contract, in some cases amounting to “gaming the system”. These lessons need to be front of mind as the Ministry of Justice and government more widely pursues the policy of Payment by Results.

35 <http://ted.europa.eu/udl?uri=TED:NOTICE:48585-2012:TEXT:EN:HTML>

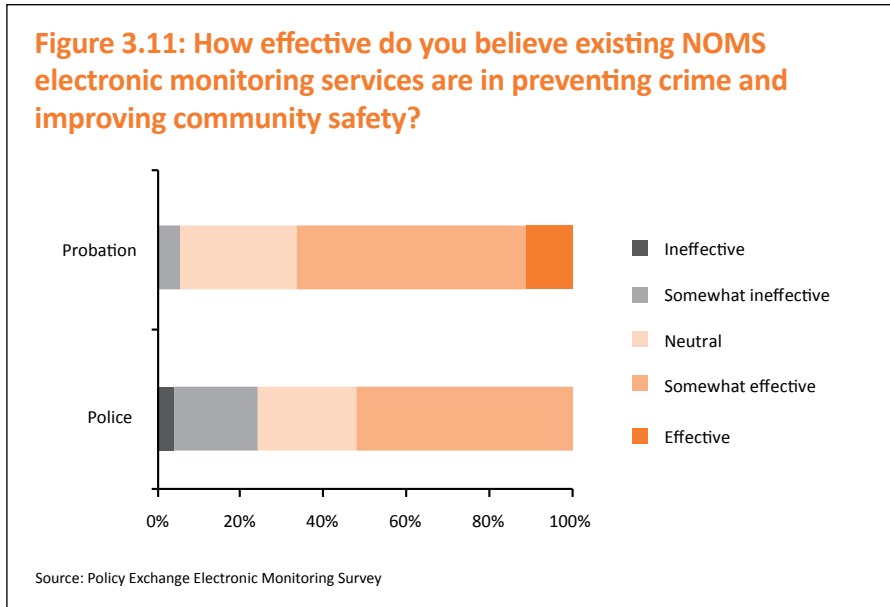
36 http://www.hmcp.si.gov.uk/documents/reports/CJJI_THM/OFFM/electronic_monitoring_thema1-rps.pdf

37 http://www.hmcp.si.gov.uk/documents/reports/CJJI_THM/OFFM/electronic_monitoring_thema1-rps.pdf

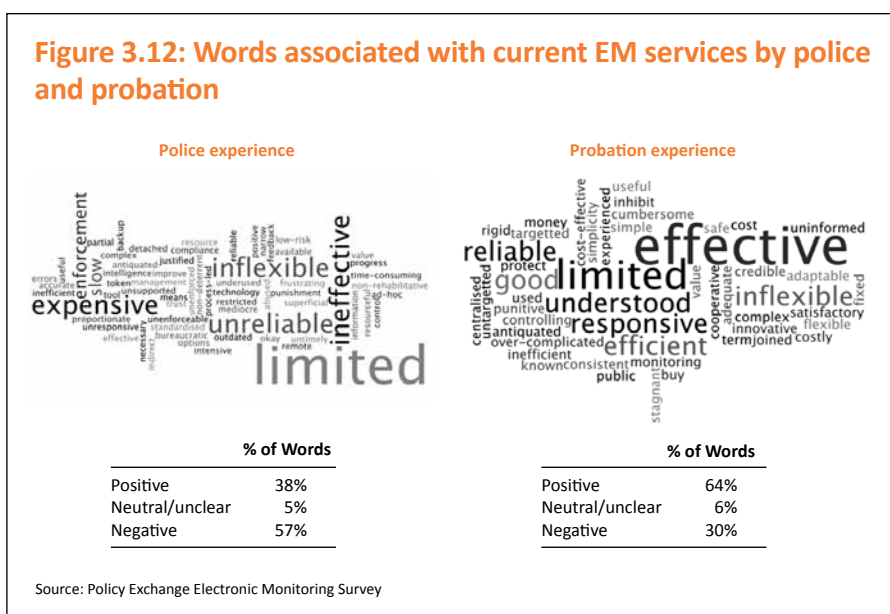
38 http://www.hmcp.si.gov.uk/documents/reports/CJJI_THM/OFFM/electronic_monitoring_thema1-rps.pdf

39 Jones, A. ‘A Tagging Tale: The work of the monitoring officer, electronically monitoring offenders in England and Wales’, *Surveillance & Society*, Volume 2(4), 2004 pp.581–588

Police and probation respondents to our survey revealed a rather cooler opinion on the effectiveness of the current electronic monitoring services than the marketing literature produced by the incumbent suppliers would suggest, with 1 in 4 police forces believing the current services to be ineffective.



We also asked probation trusts and police forces to provide five words to describe the current electronic monitoring service. Probation trusts were, on the whole, more positive (64% of probation words were positive versus 38% of police words) – but the word “limited” was often used to describe the service by both probation and police, a reflection of the extent to which practitioners are excluded from electronic monitoring in England and Wales, and the contracts that have locked them into outdated technology and denying them the opportunity to make use of modern GPS tagging.



Excluding practitioners and generating bureaucracy

Each and every review of electronic monitoring has consistently identified the problem that EM is not sufficiently integrated or embedded within day-to-day offender management. There has been no significant improvement, nor can there be when the electronic monitoring service is contracted at a national level and wholly delivered through private agencies separate from and in no material way accountable to local agencies and practitioners.

A number of practitioners, particularly those from probation trusts, responding to our Policy Exchange Electronic Monitoring Survey echoed these concerns around the segregation that exists between electronic monitoring and offender management:

“The main issue is that electronic monitoring is not well integrated with other community sentences – it is managed separately. Therefore opportunities for using electronic monitoring more creatively are simply not there.”

Probation Trust, Policy Exchange Electronic Monitoring Survey

Delivering the service via private agencies external to the criminal justice system was intended to overcome the unwillingness of some probation officers to tag their charges, while also securing efficiencies from the private market. In reality, the service has been bureaucratic and costly in spite of its operation by established private providers. The process is bureaucratic and costly from the outset, with the order process itself subject to inefficiency and missed opportunities.

Box 3.5: Out-dated order processes for electronic monitoring

The 2008 Joint Inspection of Electronic Monitoring found that, after operating for more than 9 years, the initial order for electronic monitoring *“was always in the form of a fax which was usually handwritten and often unclear”*.⁴⁰ Today there has been improvement with orders commonly received by secure email, however a sizeable proportion – 10–20%⁴¹ – are still submitted by fax, and HMIP’s 2012 analysis found that the address and postcode of the offender remain unclear in around 12% of cases, needlessly driving cost for the provider and putting public safety at risk.⁴²

In light of this situation it is unsurprising that the National Association of Probation Officers (NAPO) has been able to compile 120 examples of where practitioners have concerns around the current electronic monitoring contracts, with many of the concerns relating to issues with the home address of the offender.⁴³

The business processes associated with the order process are outdated and have been needlessly expensive, with Courts and Prisons faxing or emailing different order forms through to the incumbent suppliers. These are then re-keyed into a computer system by teams of staff at each supplier – with some information required on the forms included, while other information, such as the PNC identifiers for offenders, are routinely omitted and discarded from the re-keying process. This re-keying adds expense to the process while also failing to take the opportunity to use PNC identifiers and other references to more efficiently comply with police, probation or prison requests for information.

40 http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmiprobation/joint-thematic/electronic_monitoring_thema1-rps.pdf

41 Estimates obtained during our field visits to providers

42 <http://www.justice.gov.uk/downloads/publications/hmiprob/joint-thematic/electronic-monitoring-report-2012.pdf>

43 <http://www.napo.org.uk/templates/asset-relay.cfm?frmAssetFileID=1388>

Beyond the ordering process, our own survey of probation trusts and police forces revealed the bureaucratic challenge of interacting with and obtaining information from the providers:

“Varying the terms of the order in response to dynamic changes is slow and cumbersome. The interface between HMCTS and the provider is very challenging... Contact with the provider can be very difficult given the amount of times an offender can change address or request permission to stay away from the curfew address.”

Probation Trust, Policy Exchange Electronic Monitoring Survey

The lack of direct access to a self-service portal for offender managers is a cause of real frustration and is in stark contrast to the experience of probation and other law enforcement officers in the United States. Probation and police both describe the current system as “limited” and “inflexible”:

“The ability to use curfews creatively is also quite difficult, i.e. reducing the hours if the offender demonstrates compliance, etc. This process should fall entirely to the offender manager”

Probation Trust, Policy Exchange Electronic Monitoring Survey

Even obtaining information on the compliance of an offender with a curfew proves problematic for police forces and probation trusts. This frustration is a real one and ultimately prevents the police in their mission to prevent and detect crime:

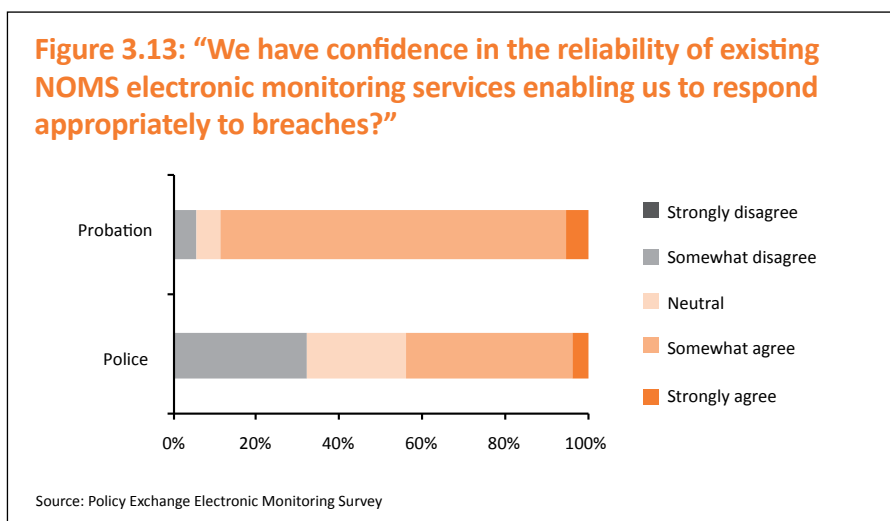
“We have had difficulties getting information from the electronic monitoring provider when we need to check that a person is or is not in breach of their curfew”

Police Force, Policy Exchange Electronic Monitoring Survey

“The information is sometimes late, inaccurate and not all the relevant information is passed”

Police Force, Policy Exchange Electronic Monitoring Survey

While probation felt the current services were reliable, the police expressed concern. One in three forces said they did not have confidence in the reliability of the existing services enabling them to respond appropriately to breaches.



Police forces with experience of working with pilot GPS technology, no doubt shaped by their experience and success in developing Integrated Offender Management and PPO schemes, believed applying the current service delivery model for RF – in which an external party is contracted to monitor the offender – to GPS would be a mistake:

“It would be a folly to contract a monitoring provider to perform this function as it would be impossible for them to carry it out. They could perform simple compliance monitoring.”

Police Force, Policy Exchange Electronic Monitoring Survey

These experiences are mirrored in the examples documented by NAPO and Her Majesty’s Inspectorate of Probation, with communication and the interface between agencies and the private providers being regularly identified as a real challenge.

In conclusion, the current contracts provide poor value to the taxpayer and continuing issues around communication and the interface between agencies drive cost and weaken the ability of local criminal justice agencies to do their job. In short, as was concluded in October 2008 by Her Majesty’s Chief Inspectors of Probation, Court Administration and Constabulary, the private providers have been “meeting the contract but missing the point”.⁴⁴ This is often seen as a criticism of the providers, but it should also be taken as a damning indictment of the Home Office and Ministry of Justice design, procurement and management of the electronic monitoring contracts.

There is no doubt that the performance and unit cost of the service have improved since the first contracts, but there is significant potential for improvement, and in Chapter 5 and the Annex to this report we consider the unrealised potential for electronic monitoring.

⁴⁴ http://www.justice.gov.uk/downloads/publications/inspectorate-reports/hmiprobation/joint-thematic/electronic_monitoring_thema1-rps.pdf

4

Monopoly and Monopsony

The concept of electronic monitoring and the potential to use the technology to improve supervision and stabilise or reduce the prison population came to England and Wales at approximately the same time as it came to the United States. However, a number of factors came together to retard the adoption and affect the development of EM in England and Wales, precluding frontline practitioners from integrating the tool within their work or developing innovative applications.

The introduction of electronic monitoring

The history of electronic monitoring in England and Wales can be traced to Tom Stacey, a former journalist and soldier and latterly a prison visitor and publisher. Over the course of 1981 he sought to develop the concept of a tag, worn by offenders, enabling them to live in the community rather than be expensively incarcerated. He secured meetings with electronics experts and in late 1981 took a proposal to the Home Office's Head of Prisons.

Over the course of 1982 and 1983, Tom Stacey set about creating and launching a "publicly recognisable pressure group"⁴⁵ called the Offender's Tag Association, setting out his desire to see "tags on lags" in a letter to the Times in October 1982. In May 1983, the Offender's Tag Association was launched at a press conference in Westminster and the accompanying call to introduce electronic monitoring as a means to prevent crime, aid rehabilitation and provide an alternative to prison was met with vociferous opposition from, surprisingly, a number of influential penal reform and criminal justice groups.

Tom Stacey foresaw much of what he called "the baying and yelping"⁴⁶ of the civil liberties and penal reform lobby, who opposed the introduction of tags. In spite of his erstwhile desire to "try something new" and to do so "with the utmost caution", organisations like Liberty, the Howard League for Penal Reform, the Prison Reform Trust and the Penal Affairs Consortium (today known as the Criminal Justice Alliance) remained vocal in their opposition to the idea of tagging offenders.

In spite of protestations around the detention of approximately 45,000 remand prisoners each year in "the most squalid, overcrowded and degrading conditions which the prison system has to offer"⁴⁷ the Prison Reform Trust remained opposed to the use of electronic monitoring. The PRT's Director, Stephen Shaw, later the Prison Ombudsman, described the proposals for electronic monitoring as "an expensive rather dangerous absurdity"⁴⁸ with Orwellian overtones.

Seven years later and the opposition to electronic monitoring remained fierce from the major penal reform groups and the National Association of Probation Officers. This prompted David Waddington, as a Home Office Minister, to highlight

45 Personal communication with Tom Stacey, 1 May 2012

46 'Tags on Lags', Letter from Tom Stacey, *The Times*, Saturday 16 October 1982

47 'Remand prisoners held in squalid and degrading cells', *The Times*, 9 May 1983

48 'Marked Man', *The Times*, Thursday 5 May 1983

the seemingly absurd position during the second reading of the Criminal Justice Bill in November 1990: “The opposition to the schemes is nonsensical. Those who oppose electronic ... tagging – are the same people who are nagging me to try to keep people out of custody.”⁴⁹

The National Association of Probation Officers (NAPO) opposed electronic monitoring in the 1980s and 1990s, claiming tagging was a “costly irrelevance which would almost certainly be used disproportionately on black defendants”.⁵⁰ Even today NAPO describe the use of tags as “flawed”.⁵¹ Resistance to new technologies and approaches has not been confined to electronic tags, as the box below, on the use of electronic kiosks, identifies.

Box 4.1: Case study – electronic kiosks in probation

Almost 20 years ago, in 1995, New York City’s Probation Department set about using electronic kiosks to supervise low-risk offenders in the community. Electronic kiosks in probation follow the same principle as self-service check-in, allowing individuals to demonstrate attendance and meet minimum supervision requirements, without the need to have interaction with a probation officer.

The aim, as described by the Probation Department’s Commissioner, Michael Jacobson, was to “wherever possible, liberate probation officers from mundane clerical-type work, so they can focus on supervision”.⁵²

Washington D.C. has followed New York’s lead, along with other agencies, in using electronic kiosks to allow resources to be better directed towards those offenders who require in-person supervision and pose a higher risk, while also providing low-risk offenders with less onerous reporting requirements helping them to stay low risk by maintaining any employment they might have.⁵³

In spite of the evidence-base – and the passing of almost 20 years since the technology was used in New York City – there has been significant resistance from NAPO to the use of the technology in England and Wales. The first pilot of the technology, in London’s Probation Trust, has only just been approved and has been met with claims from the Prison Reform Trust and NAPO that electronic kiosks are “appalling”, a “poor substitute” and a “grim reality”.⁵⁴

In the context of opposition to electronic monitoring from the vocal penal reform and NAPO lobby, it was judged at the time that probation would not be willing providers of electronic monitoring services. The government had however realised that electronic monitoring could help ease the pressure on the prison population, and by the 1990s the provision of public services by private bodies was an emerging and appealing proposition to politicians. It is in this context that the English and Welsh experience of electronic monitoring should be understood.

The original top-down pilots

Electronic monitoring of offenders in England and Wales first got off the ground in 1989 in the form of three pilots testing the use of home curfew technology, allowing some custodial remand prisoners to be put on community bail instead. The first pilots followed the Conservative Party Conference in Brighton, in October 1988, when the Home Secretary, Douglas Hurd, announced plans to experiment with tagging to allow more remand prisoners to be put on bail instead.⁵⁵

49 <http://www.theyworkforyou.com/debate/?id=1990-11-20a.145.3>

50 ‘Date fixed for remand tagging experiments’, *Financial Times*, 9 May 1989

51 <http://www.napo.org.uk/templates/asset-relay.cfm?frmAssetFileID=1388>

52 <http://www.nytimes.com/1995/09/19/opinion/1-probation-changes-go-beyond-new-kiosks-336295.html>

53 <http://www.urban.org/uploadedpdf/412314-Kiosk-Supervision-DC.pdf>

54 <http://www.guardian.co.uk/society/2012/apr/28/probation-officers-electronic-kiosks-scheme>

55 ‘Hurd fends off critics with test for tagging’, *The Guardian*, 13 October 1988

In 1989 the court bail pilots began in Nottingham, lasting 6 months from August supplied by Marconi; North Tyneside, starting in September also with Marconi; and Tower Bridge, starting in October with Chubb.⁵⁶ Further pilots, this time of standalone curfew orders, followed in 1995 in the City of Manchester (later extended to Greater Manchester), Reading (later extended to Berkshire) and Norfolk.⁵⁷

These pilots were all created on a top-down basis, with local areas often finding themselves the poor relation in the programmes, over-ruled by central government and the private suppliers. This imbalance and lack of involvement of local areas in the development of the pilots was most clear in the case of the GPS pilots run between 2004 and 2006.

Piloted from September 2004 to June 2006 in three areas of England – specifically, Greater Manchester, Hampshire, and the West Midlands – the satellite pilots again followed a top-down approach. The evaluation summary revealed “a mismatch between what the pilot areas sought from satellite tracking and what the monitoring companies had been resourced to provide”.⁵⁸

Procurement and contracting

The result of the original RF pilot was a plan for a national roll-out, in which a national contract, made up of a number of regional lots, would be put out to private sector service providers. These providers would manage the end-to-end process, from receiving a court or prison order for installation, through installation, day-to-day monitoring, court visits in cases of breach, through to de-installation at the end of the period.

This approach to procurement and contracting excluded probation officers (latterly offender managers), police officers and staff, and the courts themselves, from the ongoing management of the process and, to this day, continues to frustrate efforts to make better use of the technology, more swiftly deal with breaches, develop new approaches or address the many issues identified by previous reports on the subject.

The exclusion of criminal justice practitioners from the service delivery also removes a vital feedback loop. With the contracting parties essentially limited to the service providers and central government, there is no direct mechanism by which the frontline can either feedback experiences or, more crucially, hold the providers to account or require improvements to the service.

Table 4.1: Past, Present and future electronic monitoring contracts in England and Wales

	Contract Period 1 1999–2005	Contract Period 2 2005–2013	Contract Period 3 2013–2022
Contract start	1999	April 2005	April 2013
National contract	✓	✓	✓
Regional lots	✓(4)	✓(5)	X
Functional lots	X	X	✓
Prime providers	3	2	1
Providers per lot	1	1	1
Contract length	6 (5+1) years	8 (6+2) years	9 (6+3) years
Max. contract value	£346.6m	£614.9m	£3.0bn

Source: NAO, Home Office, Ministry of Justice, OJEU TED⁵⁹

56 ‘Trial runs agreed for bail by electronic tagging’, *The Guardian*, 9 May 1989

57 <http://www.napo.org.uk/templates/asset-relay.cfm?frmAssetFileID=1388>

58 <http://webarchive.nationalarchives.gov.uk/20090215213612/http://www.justice.gov.uk/docs/satellite-tracking-of-offenders.pdf>

59 <http://ted.europa.eu/udl?uri=TED:NOTICE:48585-2012:TEXT:EN:HTML>

The electronic monitoring contracts have been let on two occasions with a third procurement process currently in progress. The table below provides an overview of the contracts, identifying some of the key characteristics of the contracts, including the number of lots, providers, contract length and value.

The use of regional lots in the first two contract periods might be seen to provide a degree of competitive pressure, but much like the privatisation of the railways, the reality was that the State had instead created monopolies in each region, with secondary legislation that granted monopoly status to the particular provider of electronic monitoring in that area.⁶⁰

Box 4.2: Creating franchised monopolies in electronic monitoring

The secondary legislation that accompanies the existing electronic monitoring contracts essentially carves up the police force areas of England and Wales into franchise areas, with a monopoly provider of electronic monitoring appointed by the Ministry of Justice – with no regard to local agencies and their preferences. The result is that the legislation expressly prohibits anyone other than Serco Limited and G4S Justice Services Limited acting as ‘Responsible Officers’ in relation to statutory electronic monitoring.

Schedule 1	Schedule 2
Police Areas in which the Responsible Officer shall be an employee of Serco Limited:	Police Areas in which the Responsible Officer shall be an employee of G4S Justice Services Limited
<ul style="list-style-type: none"> • Bedfordshire • Cambridgeshire • City of London Police Area • Dyfed Powys • Essex • Gwent • Hertfordshire • Metropolitan Police District • Norfolk • North Wales • South Wales • Staffordshire • Suffolk • Warwickshire • West Mercia • West Midlands 	<ul style="list-style-type: none"> • Avon and Somerset • Cheshire • Cleveland • Cumbria • Derbyshire • Devon and Cornwall • Dorset • Durham • Gloucestershire • Greater Manchester • Hampshire • Humberside • Kent • Lancashire • Leicestershire • Lincolnshire • Merseyside • Northamptonshire • Northumbria • North Yorkshire • Nottinghamshire • South Yorkshire • Surrey • Sussex • Thames Valley • West Yorkshire • Wiltshire

It is important that a responsible officer is appointed, however by requiring that the responsible officer be an employee of either G4S or Serco, the Ministry of Justice has succeeded in stifling the market for electronic monitoring while also excluding criminal justice practitioners from taking on the role.

60 <http://www.legislation.gov.uk/ukxi/2008/2713/contents/made>

The future contract will see one prime provider given monopoly position over the entirety of England and Wales, for an extended period of up to 9 years. The procurement and contracting process sees regional lots replaced with functional lots – an approach wholly at odds with the existing marketplace and the polar opposite of the mature and competitive market for electronic monitoring that exists in the United States.

Box 4.3: Risks of the current procurement approach

During our field research we shared the Ministry’s approach to procurement with a large number of vendors, independent subject matter experts and supervising agencies who, with only one exception, concluded that the procurement had major flaws:

- “There is no chance that this procurement process will deliver the best value for the taxpayer”
- “It’s a crazy way of doing things, I’ve never seen anything like it”
- “It’s a recipe for lawyers, arguments and frankly disaster”
- “We still can’t understand the rationale behind their approach”
- “Even if you win the contract you’re not guaranteed to be in a very happy place”
- “You’re going to have challenges. Practitioners want a tight product, that does the job”

During the course of our research, Vincent Godfrey, the NOMS Director of Procurement, did not respond to requests to discuss the rationale behind the electronic monitoring procurement process.⁶¹

From published documents it would seem that the new procurement for electronic monitoring seeks to secure “increased value for money in the national delivery of ... electronic monitoring” primarily based upon providing “the market [with] an opportunity of significant scale.”⁶²

The Ministry of Justice’s published *Competition Strategy for Offender Services* also suggests that the Ministry considers electronic monitoring to have been an area in which they have “more experience in using competition” and “where there is a market”.⁶³

Unfortunately, as is clear from the history of the programme and the proposals for the current procurement process, there is no market. The market only exists at the point when the contracts are re-tendered, which on past form is between every 6 and 8 years. Furthermore, the competition has been limited to an oligopolistic set of providers, with only a limited number of new companies with the scale and capacity to enter the bid process alongside the incumbent suppliers.

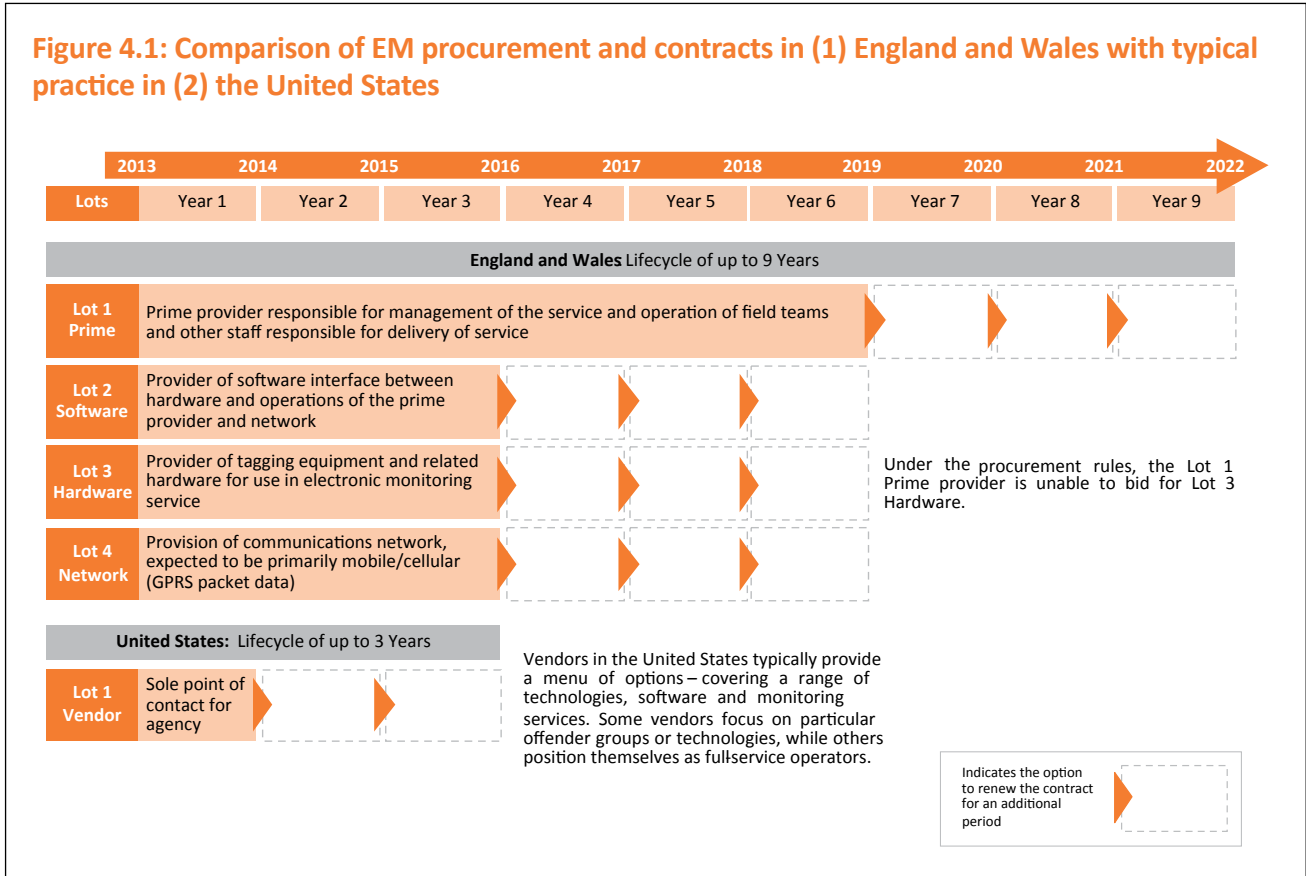
It is worth considering how the Ministry of Justice’s new procurement process compares with the typical model adopted by agencies in the United States, where RF, GPS and other electronic monitoring technology is used more widely and innovatively.

61 Four emails were sent over a period of three months with the aim of seeking a meeting to discuss the procurement.

62 <http://www.parliament.uk/deposits/depositedpapers/2011/DEP2011-1211.pdf>

63 <http://www.justice.gov.uk/downloads/publications/moj/2011/competition-strategy-offender-services.pdf>

Figure 4.1: Comparison of EM procurement and contracts in (1) England and Wales with typical practice in (2) the United States



Contracts have a typical lifecycle of up to 3 years, with the option to renew at the end of each year, subject to acceptable performance. This compares with the proposed lifecycle of up to 9 years for the new electronic monitoring contract in England and Wales. The Ministry of Justice clearly believe that by offering a long contract and significant scale (the current EM programme in England and Wales is the largest outside of the United States), they will be able to secure the best possible value:

“We will hold a competition to replace the existing Electronic Monitoring services contracts due to expire in March 2013. The re-competition of these contracts offers the market an opportunity of significant scale”⁶⁴

However, the new contract sees a single provider appointed for up to 9 years, guaranteed to be in place for at least 6 years, who will have a total monopoly in the provision of electronic monitoring across England and Wales. Given the lack of innovation seen over the last 13 years, where there have been 2 or 3 suppliers each with a regional monopoly, it seems implausible to expect a national monopoly to be any more interested or incentivised to encourage and respond to innovation and creativity.

Furthermore, the delivery model shall continue to exclude criminal justice practitioners, across courts, prisons, probation and policing. The feedback loop that exists in every electronic monitoring contract granted in the United States will remain absent, in spite of widespread recognition that the potential of electronic monitoring has not and is not being realised.

64 <http://www.parliament.uk/deposits/depositedpapers/2011/DEP2011-1211.pdf>

Instead the top-down, “man or woman in Whitehall knows best” mentality continues to dominate – exemplified by the following extract from the Ministry of Justice’s Competition Strategy: “We will explore fully how the restrictive effects of Electronic Monitoring can provide flexible and cost effective punishment.”⁶⁵ There is no mention of local agencies or practitioners having the freedom to explore how EM can provide flexible and cost-effective punishment, nor is there any mention of local agencies or practitioners having the freedom to explore how it might support rehabilitation in the context of local arrangements.

The exploration and experimentation that we have come across in our fieldwork across England has been in spite of the Ministry of Justice, rather than because of it, and in large part has only been possible due to a growing appetite at a local level to make better use of EM and the ability of a number of new entrants to provide services on a more cost-effective basis than is currently provided for on the existing EM contracts.

The Ministry of Justice also claims that it “recognises the value in making the best use of the innovation, capacity and diversity of voluntary and community sector (VCS) and small and medium sized enterprises (SMEs)” and that they “will continue to work to reduce the barriers faced by these organisations to participation in the Offender services market”, while at the very same time running a procurement that looks set to appoint a national monopoly service provider.⁶⁶

The Ministry of Justice also seem to believe that appointing a national monopoly service provider, in a bid to secure unit cost reductions will “provide opportunities for greater involvement for SMEs” by somehow creating opportunities for “companies offering innovative tagging technology”.⁶⁷

In summary, the Ministry of Justice – in line with the Coalition government’s own stated principles of open public services and localism – should be looking to create competition, i.e. a competitive market for electronic monitoring. Instead, by their own admission, they are looking at running a one-off competition: “The plan specifically commits the Agency to ... delivering competitions [for] offender services in the Community including Electronic Monitoring and Community Payback”⁶⁸

Technology is moving on rapidly in this field and the Ministry of Justice are seeking to run a “one-shot” national procurement when they should be providing the opportunity for multiple buyers to interact with multiple sellers, delivering a far more efficient, innovative and effective delivery of electronic monitoring. There has been considerable interest in the current procurement, so it seems absurd to then close the market as soon as the winners have been appointed:

*“Encouragingly, some thirty companies, including the incumbents, have expressed interest in involvement. We will ensure that the competition develops in a way that supports the broader strategic approach which we will set out in the autumn.”*⁶⁹

To this end, and in order to avoid another decade in which the taxpayer is overcharged and under-delivered, we make a number of recommendations in relation to procurement and contracting in Chapter 6.

The market structure

The approach to procurement and contracting has given rise to a market structure that can today be best described as a duopoly on the supply side, and monopsony on the demand side, with the current procurement process set to maintain the monopsony and appoint a national monopoly for up to 9 years.

65 <http://www.parliament.uk/deposits/depositedpapers/2011/DEP2011-1211.pdf>

66 <http://www.parliament.uk/deposits/depositedpapers/2011/DEP2011-1211.pdf>

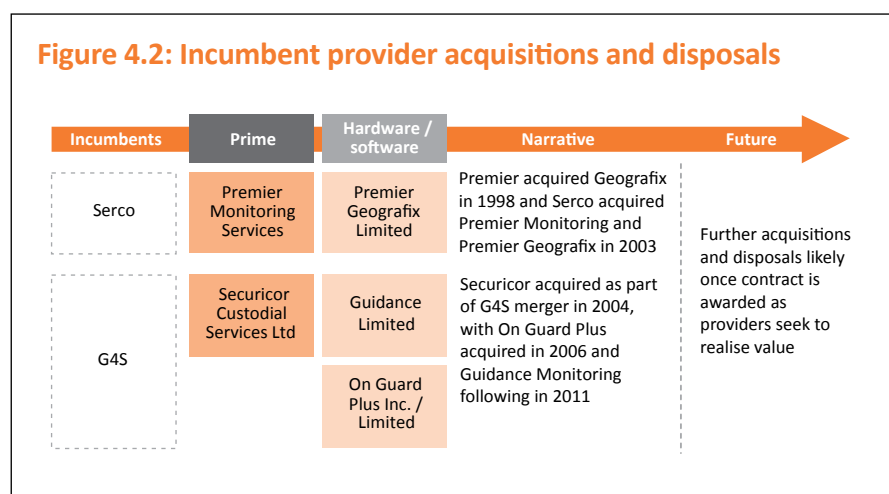
67 <http://www.parliament.uk/deposits/depositedpapers/2011/DEP2011-1211.pdf>

68 <http://www.justice.gov.uk/downloads/about/noms/commissioning-intentions-2012-13.pdf>

69 <http://www.parliament.uk/deposits/depositedpapers/2011/DEP2011-1211.pdf>

The notional competition provided under the first set of contracts, in which 3 suppliers each had a regional monopoly, was further diluted when Reliance lost their “lucrative contract” worth, at the time, £18 million per year, to tag offenders in one region.⁷⁰ The reasons for the loss of the contract were never made public, with the Home Office stating: “Due to contractual agreements and commercial confidentiality we cannot give a specific explanation as to why we have given the contract to one of their competitors.”⁷¹

The result of this was a further market consolidation, and the creation of the duopoly that currently exists. Furthermore, the long contract periods, predictable cashflows, regional monopolies and resulting profits have given sufficient security and incentive to the incumbent providers to vertically integrate their supply chains, and made them attractive acquisitions for the world’s largest security and outsourcing firms, as evidenced by the history of M&A activity in the UK marketplace.⁷²



The development of the electronic monitoring market in England and Wales fits almost perfectly with the published market strategies of at least one of the two incumbent providers, which emphasises the consolidation and concentration of the market and the development of large outsourced contracts.⁷³

The sponsorship of the annual Conference for European Probation (CEP) on Electronic Monitoring by the large incumbent providers of electronic monitoring in Europe, coupled with a programme of EU funding that sees NOMS personnel advise other EU nations on how to develop highly centralised electronic monitoring programmes, suggests a degree of regulatory capture within the European EM marketplace.⁷⁴

Alongside the apparent regulatory capture, an extremely high degree of market concentration has emerged. In the case of England and Wales, the market was concentrated from the very start – with just 3 providers in 1999 – and the contracts have seen the entire end-to-end EM process outsourced, with the current contract being one of the largest in the world and accounting for approximately 80% of the entire European electronic monitoring market. The conclusion of some media commentators is that: “Companies such as G4S and Serco already dominate the market for electronic tagging.”⁷⁵

The market structures of various countries can be visualised by setting the number of suppliers against the number of customers. The large and highly fragmented US market has a large number of customers, supporting a large number of suppliers, and coupled with shorter-term contracts it ensures a

70 <http://www.scotsman.com/news/uk/scotland-prisoner-escort-service-company-loses-english-jails-deal-1-558841>

71 <http://www.scotsman.com/news/uk/scotland-prisoner-escort-service-company-loses-english-jails-deal-1-558841>

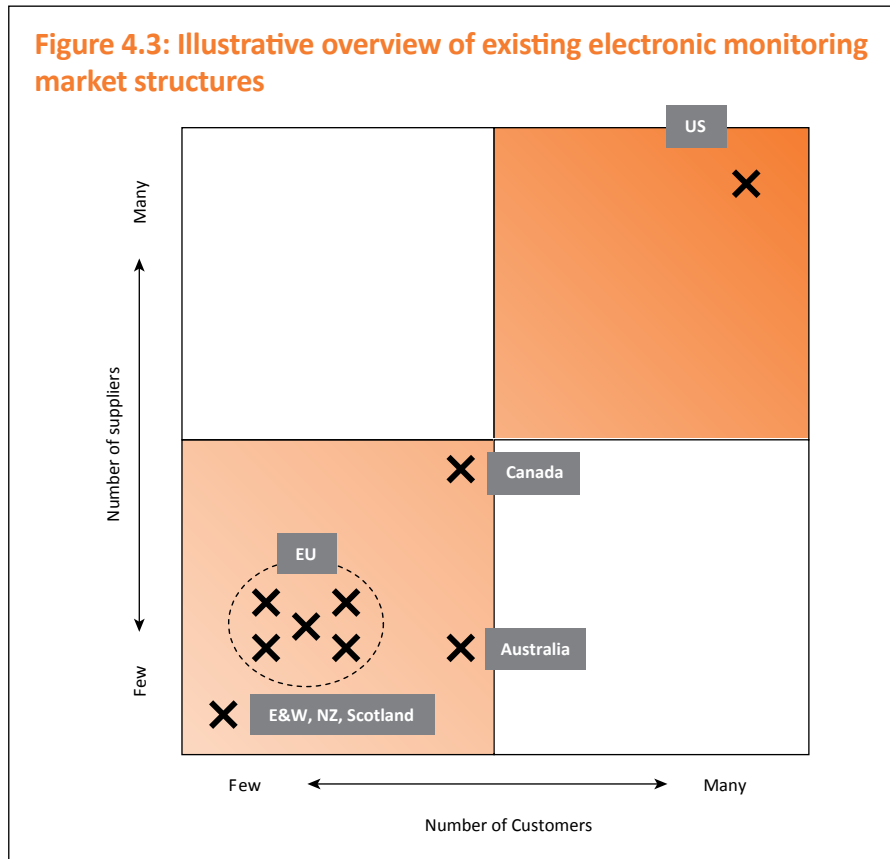
72 http://www.cepprobation.org/uploaded_files/pres%20EM%2007%20lilly.pdf

73 http://www.g4s.com/~media/Files/Annual%20Reports/g4s_annualreport_2004.ashx

74 <http://www.cep-probation.org/news/254/624/8th-cep-conference-on-electronic-monitoring-in-europe-se>

75 ‘Private group signs joint deal to run prisons’, *Financial Times*, 15 April 2012

competitive marketplace. At the opposite end of both spectrums lie England and Wales, along with New Zealand and a number of European Union countries, opting for national contracts, awarded to just one or two suppliers, and offering the providers long-term security through lengthy contracts (5 or more years). This approach concentrates the market and stifles both competition and innovation.



The competitive nature of the US market has kept pressure on providers to innovate, enabled them to develop propositions that appeal and respond to demands from practitioners, and commoditized much of the technology. These competitive pressures have forced a number of providers out of the market, but the low barriers to entry provide an ever-present opening for new entrants.

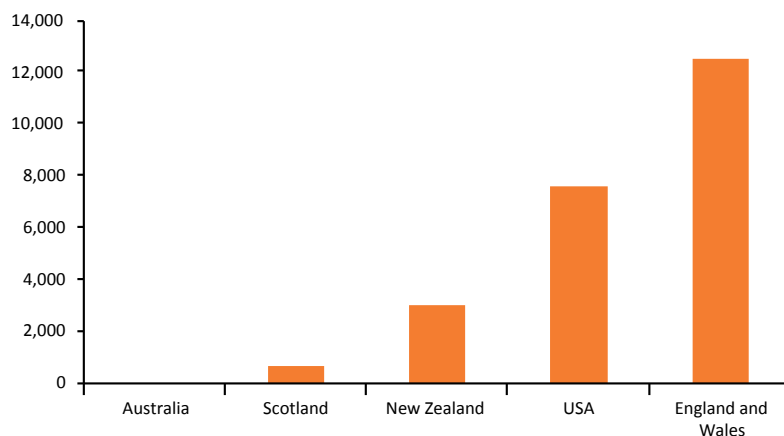
It is also apparent from a comparative analysis that England and Wales does not benefit from any of the advantages seen in the US market.

Table 4.2: International comparison of market features

Market features	England and Wales	New Zealand	Australia	Canada	USA
More than 2 buyers	X	X	✓	✓	✓
More than 2 providers	X	X	X	✓	✓
Short contract terms	X	X	X	✓	✓
Spot price transparency ⁷⁶	X	X	X	✓	✓
Practitioner involvement	X	X	X	✓	✓
Open Standards	X	X	X	X	✓

⁷⁶ An assessment of whether pricing is well-known in the marketplace, whether this be through formal publication or informal disclosure of pricing details for electronic monitoring services.

Figure 4.4: Best estimate average EM caseload per vendor (2011)



Source: National Institute of Justice (2012), G4S, CEP, NZ DOC, NZ Police, Scottish Government

The number of buyers, or customers, in the market is also very different in the USA. The scale of the US and the much more localised criminal justice agencies, mean the demand side of the market is highly fragmented, with hundreds if not thousands of potential customers.⁷⁷ This is in direct contrast to the demand-side in England and Wales, New Zealand and Europe, where criminal justice is more centralised and often run at a national level. Canada and Australia, with state and provincial departments of corrections, lie somewhere between the two. England and Wales has by far the highest average EM caseload per vendor and on current procurement plans this can be expected to more than double in the next few years as a single provider is appointed for the entire caseload. This is in stark contrast to Scotland where a daily caseload of just 700 offenders continues to be an attractive proposition to EM vendors.⁷⁸

Box 4.4: Case study – importance of short-term contracts

Short term contracts in a market with multiple buyers and sellers keeps suppliers on their toes, with a failure to deliver on the contract resulting in the termination of that contract and the customer going elsewhere. The following example highlights the importance of short-term contracts and having a competitive marketplace:

- Massachusetts, USA: In June 2011 state officials raised concerns over the accuracy and reliability of the electronic monitoring system provided by iSECUREtrac. As a result, by February 2012 the state replaced the contract with a new vendor, after a competitive procurement involving six vendors.⁷⁹

The procurement approach of the Home Office and today the Ministry of Justice has taken us from oligopoly to duopoly and promises monopoly. The current attempt to obtain competitive offers and visibility on pricing by functional lot, in an apparent bid to secure a better deal for taxpayers, is in fact not carving up the market, but seeing the market carve up the Ministry of Justice.

⁷⁷ Customers and potential customers in the United States include policing agencies, juvenile probation services, adult probation services, prisons and pre-trial supervising agencies at the local, state and federal levels.

⁷⁸ Scottish Government, Community Justice Division

⁷⁹ <http://www.telegram.com/article/20120222/NEWS/102229941/0/letters>

Box 4.5: Current procurement plans – functional lots

The table below provides an overview of the current procurement plans for the new contract. The durations shown are the initial contract term and then the option to renew in parentheses.

Lot	Duration	Description
1. Prime	6 years (+3 years)	Prime provider responsible for management of the service and operation of field teams and other staff responsible for delivery of service.
2. Software	3 years (+3 years)	Provider of software interface between hardware and operations of the prime provider and network.
3. Hardware	3 years (+3 years)	Provider of tagging equipment and related hardware for use in electronic monitoring service.
4. Network	3 years (+3 years)	Provision of communications network, expected to be primarily mobile/cellular (GPRS packet data).

The rules prevent any bidders for Lot 1 (Prime) also bidding for Lot 3 (Hardware). This constraint can be expected to drive a programme of M&A activity following the appointment of any prime provider that currently has a hardware operation. It is reasonable to expect that discussions may already be taking place in the marketplace about how providers can extract maximum value under different scenarios.

Given the rules preventing Lot 1 providers bidding on Lot 3, it can be expected that larger providers may seek to make arrangements with other providers that ensure maximum value can be extracted. For example, reaching agreements that if Provider A wins Lot 1 they will seek to work with Provider B for Lot 3. The idea that drawing artificial distinctions between functional lots and running a ‘one-shot’ procurement will deliver best value for the taxpayer either at the time or in the long-run is misguided, especially based on the historical experience of previous electronic monitoring procurement in England and Wales. Not only does the new procurement envisage ongoing ownership of the tagging service by an outsourced provider, but it is seeking to contract with several providers on a national scale in an un-tested way that is replicated in no other jurisdiction. This will secure neither the best value for taxpayers nor the best service for the public.

Part Three

The Future of Tagging

“America has always had the advantage over Britain in its local devolution of jurisdictions to state or county levels, which allows for relatively daring innovations to be randomly introduced.”

Tom Stacey, Founder, Offender’s Tag Association

There is great potential for the improved use of electronic monitoring in England and Wales. This is a view shared by practitioners, with our survey of practitioners finding that 90% of police and probation trusts agree there is potential for more effective use. Practitioners are also keen to make use of electronic monitoring and technology within mainstream offender management to prevent and detect crime and to aid rehabilitation.

If practitioners are to have these freedoms to innovate and to make the difference that they signed up to, then the central government monopoly over electronic monitoring needs to be broken. Chapter 6 outlines the steps that must be taken to avoid another decade of stagnation and lost value. We believe commissioning should be localised, with local areas able – once Police & Crime Commissioners are elected – to opt-out of the Ministry of Justice provision and secure their own arrangements, taking the budget for those services with them and augmenting it if they choose to expand the use of EM in their area.

These contracts, though procured locally, would be integrated and would involve suppliers providing a full suite of EM services, but open to the police and probation to access and oversee. This would best guarantee the development of a real market in electronic monitoring services that would encourage innovation, mainstream the latest technology more quickly, and allow the integration of EM – especially GPS tagging – within mainstream offender management. It would also best guarantee a better deal for taxpayers.

5

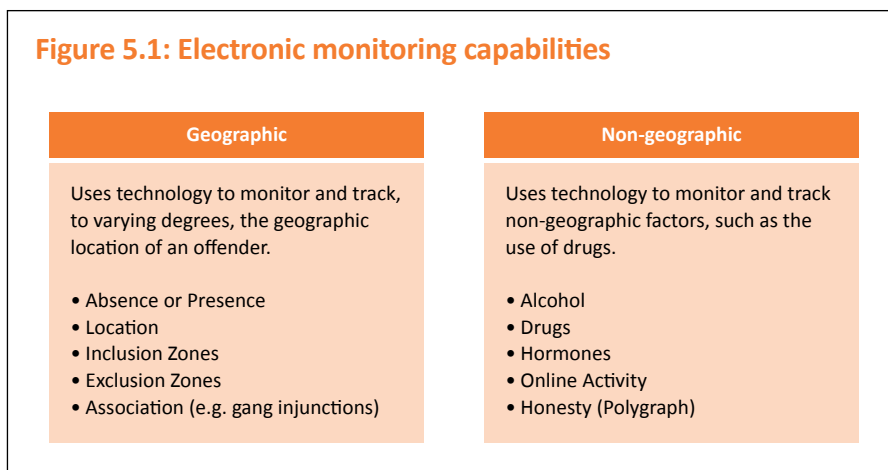
The Unrealised Potential

The developing evidence base for electronic monitoring shows us that offenders subject to electronic monitoring are more likely to comply with the conditions of their supervision. This chapter seeks to explore the areas in which electronic monitoring might be most gainfully applied and deliver the biggest offender management, crime prevention, and rehabilitation benefits.

A world of possibilities: many and varied uses of EM

Electronic monitoring has traditionally been considered primarily as a means of recording geographic data relating to the offender, such as whether they were absent from or present at their curfew address, or to track, sometimes in real-time, the actual location of the offender. This use of EM has principally been tied to a court sentence designed to punish by restricting the liberty of the wearer, with crime prevention (and occasionally, the protection of victims and witnesses) an additional objective.

However, there have also been significant developments in the use of electronic monitoring with regard to other metrics. These include recording whether an individual has consumed alcohol or drugs, the level of particular hormones in their body, their online activity and, with some caveats, the extent to which an individual is being honest with supervising agencies.



Furthermore, these different capabilities are being applied to or experimented with at various stages within criminal justice systems across the world and in relation to different populations of offenders. As the costs and quality of the technology improve, the range of use cases can be expected to increase further.

Figure 5.2: Criminal justice system stages

Pre-trial	Sentence	Post-sentence
EM can be used to enforce bail conditions and/or to allow a more intelligent risk-based approach towards the use of remand pre-trial.	EM can be used as a standalone sentence, in combination with other requirements or to provide a mechanism to better manage risks on release from custody (either on licence or HDC).	EM can be offered or requested on a voluntary basis for offenders who wish to turn their backs on crime or improve their lives.

It is also important to bear in mind that electronic monitoring is not only about the monitoring of an offender by a supervising agency, as electronic monitoring can also help safeguard victims and those at risk of harm by empowering them to take action while also providing valuable reassurance. We identify how electronic monitoring can be used to the benefit of victims in the Annex.

Given this variety of uses, the electronic monitoring of offenders should not be seen as the sole preserve of any one agency or external service provider, and the information and insight that it can provide on offender behaviour should be readily accessible to those agencies and individuals with a legitimate interest in the prevention and detection of crime and disorder and the rehabilitation of offenders. In particular, it should be readily accessible, with self-service functionality, to practitioners in the relevant supervising agencies.

Box 5.1: Case study – ShotSpotter and GPS tracking correlation in Boston

In the city of Boston, Massachusetts, a network of acoustic sensors listens out for the sound of gunshots. The technology allows the location and type of gunfire to be captured and relayed to first responders, such as the police. Boston have gone a step further, with the city’s police ShotSpotter data of gunfire locations being compared with the known movements of those subject to GPS tracking on the probation caseload. In 2007 the State’s Electronic Monitoring Commissioner, Paul Lucci, said: *“We can’t arrest our way out of the problem. It’s going to be a multifaceted approach [to combat gun violence]. ShotSpotter or GPS [tracking] is just one piece.”*⁸⁰

The results of ShotSpotter are available via mobile technology to officers on patrol, and with the co-operation of the Boston Probation Department, the location of gunshots are compared with the locations of offenders on GPS monitoring. This allows individuals to be linked to the gunshots, either as suspects or as potential witnesses.⁸¹

80 http://www.wickedlocal.com/rosindale/news/x244876676?zc_p=1#axzz1zkprc8R9

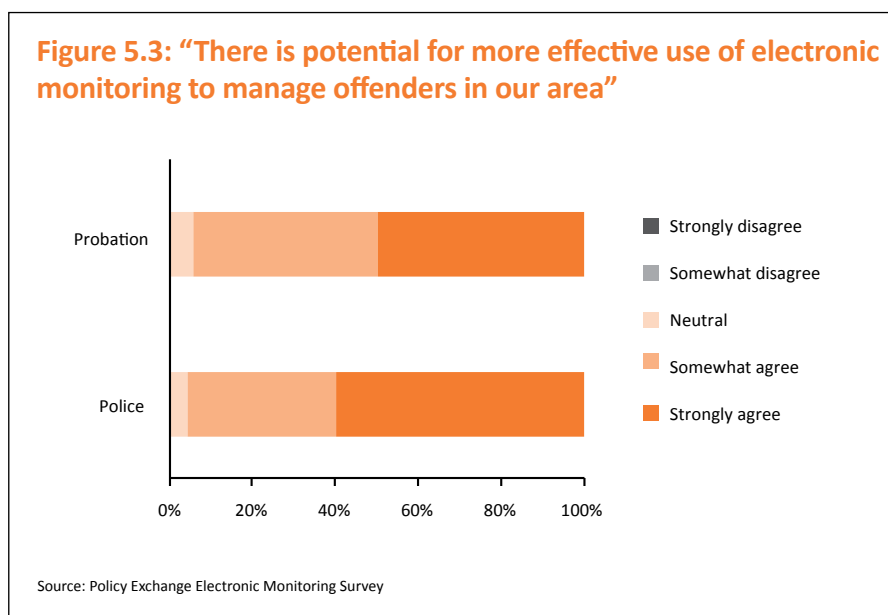
81 <http://www.mass.gov/courts/probation/pr042711a.html>

Support for expanded use of EM in England and Wales

There is considerable appetite on the part of practitioners to make more effective use of electronic monitoring. The monopsony position of central government has

combined with the monopoly positions enjoyed by the incumbent – and entirely outsourced – providers of electronic monitoring to crowd out innovation, both in terms of the underlying technology but also in relation to the specific applications of both new and old technology. This has no doubt contributed to the pent-up demand on the part of practitioners to apply electronic monitoring more creatively and effectively.

Our exclusive survey of police forces and probation trusts found more than 90% of responding police forces and 90% of probation trusts agreed that there is potential for more effective use of electronic monitoring to manage offenders.

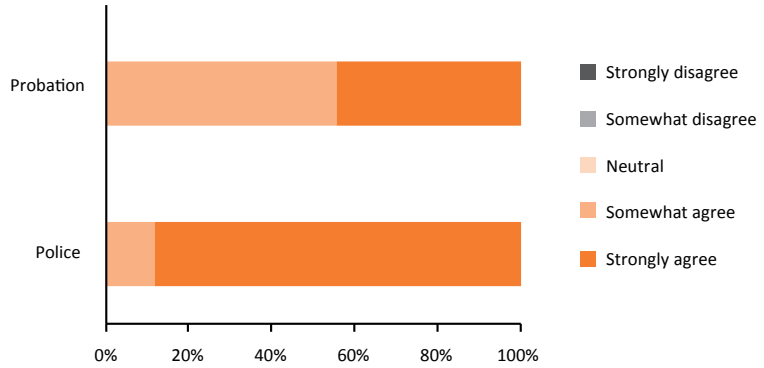


Probation trusts involved in the original GPS pilots in England and Wales identified “considerable benefits” from tracking offenders and analysing their movements, though there were some concerns raised that this might be “used to ‘fish’ for offenders who have been in the vicinity of crimes”.⁸²

If practitioners are broadly supportive of using EM more effectively and potentially expanding its use, and the newest technology offers new options for sentencers and offender managers, then a public debate is needed about whether the expansion of EM would be desirable – given the failures in the past. A strategy to expand the use of EM to maximise the crime reduction potential of GPS monitoring and transdermal drug-testing would need to account for the costs of any roll-out. Given resource constraints, the use of electronic monitoring, in the form of a combined RF and GPS unit, could target the population of offenders that commit the most crime and the most harm. This could help prevent crime and improve community safer by providing greater control and supervision facilities for the offender managers working with this population. This was a view wholly shared by police and probation respondents to our survey.

⁸² Probation Trust responses to Policy Exchange Electronic Monitoring Survey

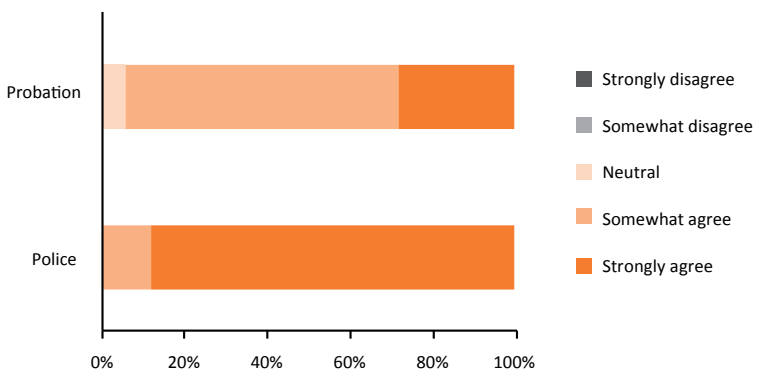
Figure 5.4: “It would help our officers and staff prevent crime and improve community safety if the location of our most prolific and highest risk offenders could be tracked in the community (e.g. via GPS)”



Source: Policy Exchange Electronic Monitoring Survey

There was also a strong view that both the prevention and detection of crime would be served by comparing the location of the most prolific and highest-risk offenders against reported crime data, and that this would aid detection, speed up responses, and reduce wasteful allocation of resources. The police were especially strong advocates of this use of EM and were clear that it would aid the crime reduction efforts of their offender management teams.

Figure 5.5: “It would help our officers and staff prevent and detect crime if we could compare the tracked locations of our most prolific and highest risk offenders against reported crime data”



Source: Policy Exchange Electronic Monitoring Survey

In an exclusive public poll conducted by YouGov, Policy Exchange found that a clear majority (58%) of the public would support the “comparison of the movements of offenders against crimes reported to police”. Together, the strength of public and practitioner support for such measures demonstrates the extent to which the existing use of EM has not only failed to deliver value for money, but

has also failed to keep pace with the expectations of both frontline practitioners and the public about what EM ought to be used for. This is echoed by respondents to our electronic monitoring survey who reported:

“The current use of electronic monitoring has not kept pace with technological advances and the system that is used focuses on the processes involved, not on the outcomes that it is intended to achieve.”

Police Force, Policy Exchange Electronic Monitoring Survey

“The current electronic monitoring system does not meet the needs of sentencers. In presentations, both judges and magistrates have stated how they want something that they can use effectively for different situations.”

Police Force, Policy Exchange Electronic Monitoring Survey

Potential new uses of EM

Practitioners interviewed by Policy Exchange were all open to the potential that new forms of EM – especially GPS tagging – could offer, in two key areas:

- **Crime reduction** – using new types of EM to better monitor the movements of prolific offenders and to supervise their behaviour to help reduce criminal activity (through enhanced risk of detection), to respond more swiftly and effectively to all forms of breach (to detect offending), and where possible, to intervene earlier to prevent new crimes.
- **Rehabilitation** – using new types of EM to create more intelligent and bespoke licence conditions for released prisoners or offenders on a community order that enable punishment but also enhance rehabilitation by allowing the wearer to remain employed or in education, or to gain such opportunities (if used on day-release inmates under the ROTL programme), or to remain in the community and closer to their social support networks, avoiding the disruption of being sent to (or kept in) custody.

In support of these two broad objectives, there was a common recognition that GPS tracking had the most potential for new opportunities, with many suggesting some quick-wins that would come from widespread use of GPS to an existing population of known offenders. Respondents to our survey supported expansion of GPS tagging to cover new cohorts of offenders:

“New options should be explored, particularly with high risk offenders, such as PPOs.”

Police Force, Policy Exchange Electronic Monitoring Survey

This is also a view shared by practitioners currently piloting the use of satellite tracking:

“We are currently piloting satellite tracking of some of our most prolific offenders. Feedback to date is that this is having a demonstrable impact in reducing re-offending.”

Probation Trust, Policy Exchange Electronic Monitoring Survey

Some new uses of EM that were proffered by police and criminal justice professionals included ensuring the most extensive coverage of the Prolific Priority Offender (PPO) population by allowing prison governors to specify licence conditions that include RF and GPS monitoring as part of a Home Detention Curfew release, and allowing courts and sentencers to include GPS monitoring as part of the existing regime of community orders (an enhanced “curfew” component). Some practitioners felt that there should be an option for PPOs – outside of any statutory framework – to be offered RF and GPS tags to monitor them in the community on a voluntary, opt-in basis.

In some parts of the United States, registered sex offenders are required to wear a GPS tag with their location actively recorded. This has contributed to a significant growth in the use of GPS in the US marketplace. A recently published evaluation of California’s GPS-based High Risk Sex Offender programme found that offenders on GPS showed “significantly better outcomes for both compliance and recidivism”.⁸³

Box 5.2: Managing sex offenders in the community using GPS

In January 2009 California’s Department of Corrections and Rehabilitation announced that all sex offender parolees were under GPS supervision. This followed proposition 83, the so-called “Jessica’s Law”, in 2006, which required every paroled sex offender to be monitored by GPS.⁸⁴

2006 saw 22 states pass legislation requiring or authorising the use of GPS technology to track sex offenders. Colorado, Florida, Missouri, Ohio, Oklahoma and Wisconsin all enacted laws requiring lifetime electronic monitoring for certain sex offenders.⁸⁵

The International Association of Chiefs of Police has already highlighted the fact that law enforcement agencies “can benefit by collaborating with correctional agencies to facilitate the exchange of GPS data” to investigate crime, streamline workloads and locate absconders.⁸⁶

Just such collaboration allowed Washington D.C.’s Court Services and Offender Supervision Agency (CSOSA) and the local Metropolitan Police Department to place an offender at the time and location of two sexual assaults on teenage girls, resulting in the offender’s arrest and subsequent conviction.⁸⁷

Aiding crime reduction

The current and proposed contract does little more than manage compliance with curfew or exclusion conditions. Breaches of these conditions are dealt with relatively slowly and formulaically. GPS tracking of potentially active offenders, on the other hand, offers smart and dynamic supervision and enforcement that is speedy and certain.

The logical way to realise the crime reduction potential of location-based EM would be for offenders’ GPS tags to be directly linked to police emergency response and crime recording systems. This way, when a crime in progress is being reported by a member of the public, the police control room could check the current movements of GPS-tracked offenders so that the guilty can be captured and the innocent exonerated straight away.

83 <https://www.ncjrs.gov/pdffiles1/nij/grants/238481.pdf>

84 <http://www.youtube.com/watch?v=BWYy-ZlBMXU>

85 <http://www.ncsl.org/programs/cj/2006crime.htm>

86 <http://www.theiacp.org/LinkClick.aspx?fileticket=182B%2BdcivLk%3D&tabid=87>

87 <http://www.stopllc.com/pdfs/news/2008-0402-The-Examiner-DC.pdf>

Probation trusts involved in the original GPS pilots in England and Wales identified “considerable benefits” from tracking offenders and analysing their movements, though there were some concerns raised that this might be “used to ‘fish’ for offenders who have been in the vicinity of crimes”.⁸⁸

Box 5.3: Tagging potential for real time crime centres and fighting crime

A number of cities, notably New York City and Philadelphia, have invested in the development of real-time crime centres. These operations seek to capitalise on CCTV and other available data to enable a fast-time police response to emerging crime patterns and street crimes in progress.

RF-enabled CCTV installations, which register the presence of RF tags, could be developed to help aid tracking of offenders on tag where they have committed an offence or where they are suspected of having committed an offence.

Any future tagging arrangements should ensure that tagging information is accessible in real-time to police forces so that potential suspects can be both identified and eliminated, particularly since those on location-based tags should generally be the most prolific offenders or those who pose the highest risk.

Coupled with intelligent use of CCTV, ANPR, and existing police databases, feeds from electronically monitored offenders should provide police with another valuable tool in the fight against crime. This data could also be made available to response and neighbourhood officers via their mobile data terminals or PDAs, ensuring that every opportunity to positively engage suspects or those suspected of offending can be seized.

In London this approach would fit well with the stated aim of the Metropolitan Police’s Commissioner Bernard Hogan-Howe’s ‘Total Policing’ mission to “do whatever you can to arrest criminals and stop crime, so long as it’s legal and ethical”.⁸⁹ There is a compelling argument for believing that when a call for service is received by the police and a Computer Aided Despatch (CAD) record created, the dispatcher, any local hub or Grip and Pace Centre (GPC) and responding officers should be able to see for themselves whether any tracked offenders are in the area. The hardware and software exist to enable this to be a reality.

Crime scene correlation – in which the locations of reported crime are overlaid on a daily basis against offenders’ movements – should be a key feature of new programmes. This would help ensure offenders can be quickly arrested for any crimes they have committed or are suspected of having committed. Equally important is having their non-involvement in crime acknowledged and affirmed, with their historical movements available as an alibi.

A number of jurisdictions, particularly in the United States, already make use of electronic monitoring to enforce court orders such as gang injunctions. In Los Angeles, California, courts are able to order the use of “GPS or other court approved electronic monitoring” to ensure compliance and swift enforcement.⁹⁰

88 Probation Trust responses to Policy Exchange Electronic Monitoring Survey

89 http://www.met.police.uk/job/job1026/the_job_56.pdf

90 http://atty.lacity.org/stellent/groups/electedofficials/@atty_contributor/documents/contributor_web_content/lacityp_007163.pdf

Box 5.4: Stanislaus county probation department: creating GPS-monitored safety zones

In Stanislaus County, in central California, the Probation Department use GPS tags to monitor compliance with a recently created 'Safety Zone', which named gang members are not allowed to enter.⁹¹ Probation officers fit the GPS tags to the offenders and have instant access to the location of the offender and are notified of any alerts, with the information directly accessible to law enforcement on both their desktop computers and smartphones:

"What happens with certain alerts, if they enter an exclusionary zone ... it's emailed to us at work or on my Blackberry... I can view it on my computer or do it all on my Blackberry."

Probation Officer, Stanislaus County, California

The safety zones are credited with helping disrupt the criminal activity of the gangs and the county are looking at creating additional safety zones to disrupt a number of other gangs.⁹²

Aiding rehabilitation

For offenders who have served a prison sentence, it is important that the option exists for police and other agencies to constructively engage with them to help support them turning their life around. Electronic monitoring can assist in this regard.

Box 5.5: Case study – Hertfordshire constabulary's C2 programme

In Hertfordshire, the local police force has developed a voluntary programme offering prolific offenders an opportunity to desist from crime. The scheme makes use of electronic monitoring in the form of GPS-tags, which allow the movements of the offender to be compared against crime.

The restrictive nature of the existing electronic monitoring contracts, coupled with the secondary legislation that prohibits anyone other than Serco or G4S from acting as responsible officers, together with the Ministry of Justice's lack of appetite for locally-led innovation, caused the programme to operate on a voluntary basis.

Although offenders have to opt-in, the programme appears to be having positive results. The programme has managed 80 of Hertfordshire's most prolific offenders, solved 8,500 crimes, increased the detection rate for burglary by 80%, reduced its incidence by 15%, and reduced recidivism among offenders by 20%. Other police forces have now sought to follow Hertfordshire's lead, with neighbouring Bedfordshire beginning a similar GPS-based programme.

Our survey of police forces also revealed other forces believe that GPS can afford a number of substantial benefits, including helping to reduce the time and associated costs of investigations:

"[GPS] would have a great impact on the reduction in crime. It could lead to offenders being brought to justice promptly as they could be traced to crime locations. It would reduce policing time and costs spent investigating offenders if we knew where they were at a material time."

Police Force, Policy Exchange Electronic Monitoring Survey

91 http://videos.modbee.com/vmix_hosted_apps/p/media?id=4985198&item_index=1511&genre_id=792&sort=NULL

92 <http://www.modbee.com/2012/01/01/v-print/2008466/reclaiming-communitysince-injunction.html>

During field research in both the United Kingdom and United States it was clear that where GPS programmes were either being trialled or in operation, it was accepted that offenders would approach the monitoring agency and request that they be put on the tag in order to help them turn their back on criminal behaviour and lifestyles.

Practitioners made reference to this desistance effect. For those wearing a GPS tag who wanted to desist from crime and embrace rehabilitative options, the certain risk of detection if they transgressed was a powerful trigger and often led to positive behaviour change in a way that an old curfew tag did not. In some cases, offenders not required to wear such a device nonetheless volunteered to wear a GPS locator to help them turn away from crime, as it gave them a credible excuse to desist and a way of resisting peer pressure, thus allowing those ready to end old habits to do so.

Probation practitioners in the German State of Hesse have described how the close supervision afforded by electronic monitoring can help the participant to “live a more structured life by giving him or her a daily schedule” of places to be, or not be, whether for work, therapy or leisure.⁹³

Box 5.6: Case study – juvenile offenders asking for GPS tags in Houston, Texas

During our visit to the Harris County Juvenile Probation Department in Houston, Texas, we heard from probation professionals and young people about how the use of GPS had helped individuals turn their backs on gangs. The most remarkable discovery was the desire on the part of some young people to request GPS tags or to request staying on the GPS tag for longer, as the tag provided them with a credible reason why they could not associate with gang members or engage in criminal activity.

This same desire by some offenders to be placed on a GPS tag has been seen in England and Wales, where voluntary GPS-based programmes operated by police forces have proven attractive to offenders and where other offenders have approached police asking about being placed on a GPS tag.

GPS tags, which increasingly incorporate existing RF technology, provide a real opportunity for practitioners and courts to offer bespoke order conditions that meet the needs of the justice system while also accommodating the needs of the wearer. For example, the use of inclusion or exclusion zones around particular locations, or type of locations, can be easily programmed. This can be both to protect victims and witnesses, but also to prevent crime and keep the offender away from risks or temptation. For example, it is routine that the locations of all child play areas are added to a list of exclusion zones for known sex offenders in many US states.

These restrictions can be imposed while not preventing movements that are in the interests of both the offender and society. The commute to and from work is one example. Inclusion zones can be developed to provide a safe corridor along which an offender may travel, with deviations recorded. Additionally, RF beacons can be installed at key locations to monitor attendance. Examples include at a drug treatment centre, an attendance centre, the police station front counter and more besides.

93 http://www.cepprobation.org/uploaded_files/EM2011_Day_3.1_Electronic_Monitoring_in_Hesse_by_Silke_Eilzer.pdf

Until such time as police, probation and the courts are given the opportunity to develop such programmes, we can unfortunately only expect more of the same one-size-fits-all approach which we currently see.

Given this evidence and the innovation seen elsewhere in the world – and the fact that voluntary programmes can help innovative practitioners avoid potential obstacles in the creative use of new technology – it is important that government does nothing to prevent agencies from either offering voluntary programmes to offenders or from seeking to run trials or pilots on a voluntary basis.

Aiding supervision

Community sentencing is a growing area of use of EM, and the recent consultation document concerning community sentences suggests that its usage to underpin community penalties is likely to continue to expand.⁹⁴ Currently offenders sentenced to a community order can be required to comply with up to twelve requirements, of which a curfew is but one.⁹⁵ An EM curfew may be imposed as a standalone requirement, effectively a punishment in its own right. Recent legislative changes now allow curfews to last for up to 12 months and to cover up to 16 hours per day.

There is appetite from probation to build on curfew requirements by making use of GPS tags part of community supervision. Practitioners feel this would help provide a greater degree of control and supervision:

“The greater use of GPS tags will extend the ‘reach’ of the supervising officer, allowing a greater restriction to be developed within the risk management plan.”

Probation Trust, Policy Exchange Electronic Monitoring Survey

The greatest potential benefit – and one that was repeatedly cited by both police and probation in our surveys – was mainstreaming electronic monitoring within offender management, so that offender managers could make greater and better use of electronic monitoring when managing offenders in the community:

“There would be greater benefit for rehabilitation and public protection if electronic monitoring was seen as a part of the package of supervision, managed by one offender manager.”

Probation Trust, Policy Exchange Electronic Monitoring Survey

Examples of this would include enabling offender managers to use EM to monitor attendance at work placements or other activities, while also providing the capability to check movements against reported crime. The unimaginative nature of supervision requirements – typically consisting of little more than a weekly or fortnightly meeting with the offender – could be unlocked if local practitioners had the freedom to design and develop supervision programmes making use of electronic monitoring, both in terms of tags, but also kiosks.

⁹⁴ https://consult.justice.gov.uk/digital-communications/effective-community-services-1/supporting_documents/effectivecommunitysentences.pdf

⁹⁵ s 204 Criminal Justice Act 2003

Box 5.7: Client requirements for electronic monitoring eligibility in Sweden

Electronic monitoring programmes in Sweden – delivered by one of Sweden’s 34 probation agencies – place a number of conditions on the individual. Many are the same as those required in England and Wales when electronic monitoring is used as part of a community sentence:

- Only leaving home at scheduled times;
- Acceptable accommodation; and
- Participate in treatment programmes (if required).

The Swedish approach – which involves practitioners – has created a number of additional requirements that help ensure the most effective use of electronic monitoring is achieved:

- An occupation of at least 20 hours per week;
- Prohibited to use drugs and alcohol;
- Receive home visits from the Probation Service; and
- Pay a fee of £5 per day to the Crime Victim Compensation and Support Authority.

Such an approach, in which electronic monitoring is embedded within offender management, means that criteria can be developed to ensure that electronic monitoring is used appropriately. As a result of their experience to date, Sweden are now actively looking at the potential for GPS and the use of electronic monitoring with new populations, including juveniles and asylum seekers.⁹⁶

Aiding compliance and smart sanctions

It is common for politicians to give the impression that if an offender fails to comply with an order or requirement, that they will face a swift and certain punishment, such as return to prison. Unfortunately, the reality is that our criminal justice system is often neither swift nor certain, a fact confirmed by responses to our Electronic Monitoring Survey:

“In regard to breaches of bail, it is clear that violating curfews rarely leads to any enforcement. For example, in one month there were more than 130 violations reported, none of these were remanded in custody, which would be the next sanction.”

Police Force, Policy Exchange Electronic Monitoring Survey

Electronic monitoring provides the potential to determine – in near real-time – whether an offender has failed to comply with their order. It is therefore important that any framework for electronic monitoring ensures that the swiftness and certainty of detection is accompanied with a swift and certain sanction. As one police force reported, a summons to court militates against a swift resolution:

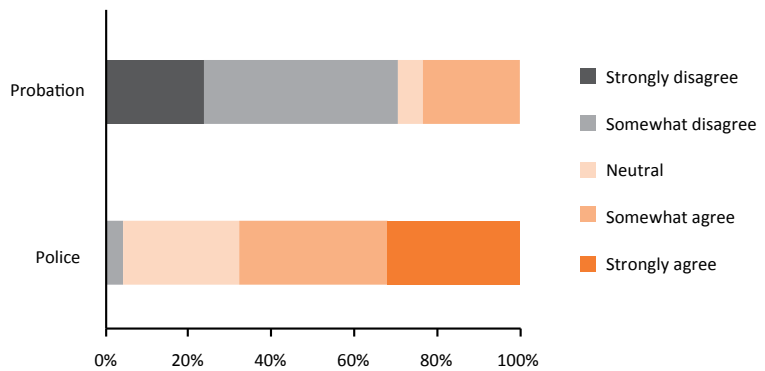
96 Kriminalvården Presentation to NAPO Conference in July 2012 by Jan Bungerfeldt

“Frequent repeated breaches result in a summons to court, which works against swift justice. The power of arrest in this situation would assist.”

Police Force, Policy Exchange Electronic Monitoring Survey

Probation and police respondents to our survey disagreed over the appropriateness of sanctions faced by those breaching existing electronic monitoring requirements. This is perhaps in part due to the conflicting cultural attitudes of police and probation, but also results from the police invariably being the most aware of those who are criminally active while on a curfew.

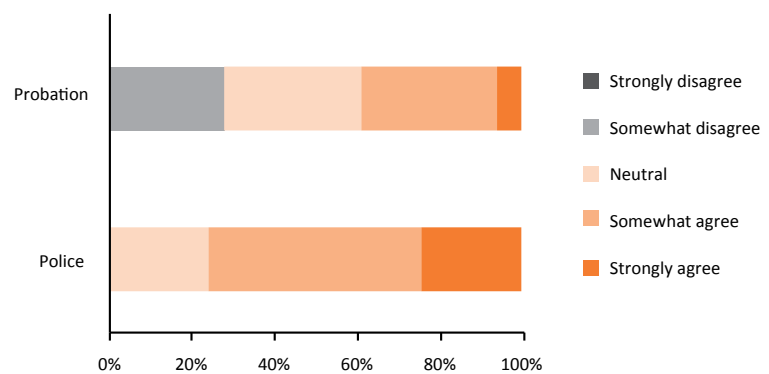
Figure 5.6: “Offenders who breach existing home detention curfews or other curfew requirements do not face an appropriate set of sanctions”



Source: Policy Exchange Electronic Monitoring Survey

Furthermore, the police more frequently identify themselves as having to deal with offenders who breach their curfew on multiple occasions. This is likely to reinforce the view that those who breach do not face appropriate sanctions.

Figure 5.7: “Our officers regularly have to deal with offenders who breach their curfew on multiple occasions”



Source: Policy Exchange Electronic Monitoring Survey

One step towards improving compliance with curfews and developing swifter sanctions could be the use of graduated sanctions, which an offender can escalate through if they are not complying with the order, and which they can cascade down when their behaviour has shown consistent improvement.

Applying graduated sanctions – such as longer curfew hours – is a common approach in the United States, and other jurisdictions, where the offender manager has direct and immediate access to the software that allows any curfew or electronic monitoring parameters to be managed.

Box 5.8: The German experience – immediate 24/7 practitioner notifications

In the state of Hesse, Germany, probation officers are automatically notified by SMS of any breaches or emergencies relating to those individuals on their caseload. This provides the probation officer with the ability to react immediately, most frequently meaning the officer will call the offender to clarify the incident. Based on the outcome of this contact, the probation officer can look to instigate enforcement action or can result the incident.⁹⁷

The information collected from the electronic monitoring is held by the state government and can therefore be readily shared and accessed by those agencies involved in fighting crime and reducing offending. This is in stark contrast to the process in England and Wales where such data is held by the private suppliers, rather than the state.⁹⁸

Offender managers in England and Wales should have the same access to information and freedom to apply graduated sanctions for minor breaches or where the offender is being un-cooperative or otherwise failing to comply with requests. The application of graduated sanctions should not require a costly and time-consuming return to court. This would help free up court time, while providing offender managers with a much enhanced ability to manage the risk and behaviour of their offenders.

Box 5.9: Swift and certainty – lessons from HOPE for England and Wales

Professor Mark Kleiman has studied the work of HOPE in Hawaii and the importance of swift and certainty in criminal justice. Kleiman has advanced the idea of a minimum effective dose of punishment that should follow as a sanction for a detected breach of, for example, a community sentence.

Kleiman describes how the value of electronic monitoring is in monitoring compliance and is dependent upon swift and certain sanctions:

“What makes electronic monitoring useful is having compliance monitored and enforced predictably with the minimum effective dose of punishment. What must be avoided is the detected and unsanctioned breach: it sends the message that the rules are a joke”

⁹⁷ http://www.cepprobation.org/uploaded_files/EM2011_Day_3_1_Electronic_Monitoring_in_Hesse_by_Silke_Eilzer.pdf

⁹⁸ http://www.hzd.hessen.de/irj/HZD_Internet

Kleiman has cited examples where offenders on GPS who breach their conditions or otherwise engage in undesirable behaviour can face the swift and certain punishment of a home curfew for a period of time. The integration of GPS and RF technology within the same device make such an approach readily achievable. Provided the supervising agencies are given the authority to apply graduated sanctions, there is no need for a costly and time-consuming return to court. Kleiman is also keen to emphasise that repeated breaches must ultimately see the offender returned to custody:

“Offenders that continue to show themselves unwilling to comply with the conditions of their community sentence must ultimately go back to jail. Otherwise the message is not sent.”

In light of the experiences in Hawaii and the evolving evidence base around swiftness and certainty of punishment, any future electronic monitoring programmes should be constructed in a way that allows for swift and certain punishment through graduated sanctions.

Where offenders are wholly absent during their curfew or otherwise commit a serious breach of any conditions or requirements, the police should have the power of arrest in order that the offender can be brought before the next available sitting of the court. To this end, and to facilitate the effective detection of breaches and the swift and certain application of appropriate sanctions, the police should have direct and immediate access to the monitoring software of offenders.

Based on our field research and responses to our survey, it is clear that many offenders and practitioners believe that to aid compliance, the tags have to be more difficult to remove. The Ministry of Justice, on the other hand, believes the tags should, on health and safety grounds, be easier to remove with a breaking strain of 35–40kg:

“...the Ministry of Justice believe that the device should be able to be removed easily for health and safety reasons. It is a clear belief of the police, and a view shared by offenders, that being able to simply remove them is not good enough.”

Police Force, Policy Exchange Electronic Monitoring Survey

Police reported that offenders themselves would like the tags to be harder to remove, so as to help dissuade them from breaching their order or requirement:

“Offenders say how important it is to have a device that is hard to remove.”

Police Force, Policy Exchange Electronic Monitoring Survey

The importance of treating the removal of a tag as a formal breach came through loud and clear in our polling. 74% of respondents believed that the removal of the tag should be treated as a “new and serious offence”.⁹⁹ In the United States the tampering with or removal of a tag is treated as a serious offence – oftentimes considered to be worse than a breach of, for example, curfew hours – since it represents a clear and determined effort to circumvent control by the authorities.

99 Policy Exchange Polling on Electronic Monitoring, YouGov, 13–14 June 2012

In the United States, it is also commonplace for offenders to contribute towards the cost of any electronic monitoring that they may be subject to. This includes the use of home curfew, GPS, and sobriety tags, with agencies typically looking to recover the full cost of the equipment, often by charging a slight premium in order to allow for a certain proportion of non-payment.

Offender-pay, as opposed to citizen-pay, models have the advantage that they help relieve the taxpayer of the financial burden of providing electronic monitoring. Cost recovering also helps provide the offender with a sense of ownership in the programme. Sometimes a refundable or semi-refundable deposit is involved, and this can also aid compliance with the scheme.

Box 5.10: Offender-pay models in sobriety programmes in the United States

Sobriety tags, and many other EM programmes, in the United States are typically funded through an offender-pay approach, which sees the offender covering the daily cost of the equipment hire and monitoring. Exit surveys compiled by a provider of continuous alcohol monitoring in the US marketplace found that offenders on their programmes were paying less for the programme than they had been paying for the alcohol prior to commencing the programme.

Figure 5.8: Comparison of daily alcohol spend and monitoring cost



Source: Alcohol Monitoring Systems Exit Survey Statistics¹⁰⁰

No comparable data exists in the UK, however it is estimated that the average household spends £15 per week on alcoholic drinks, which is believed to be a considerable underestimate, with the real sum closer to £30.¹⁰¹ While this equates to £3.83 per day, it is reasonable to expect that heavier drinkers will spend considerably more.¹⁰²

100 Summary of Alcohol Monitoring Systems Inc. Exit Survey Statistics Q1 2012 (n.949)

101 Reported alcohol expenditure only accounts for 56% of the alcohol known by HMRC to have been purchased.

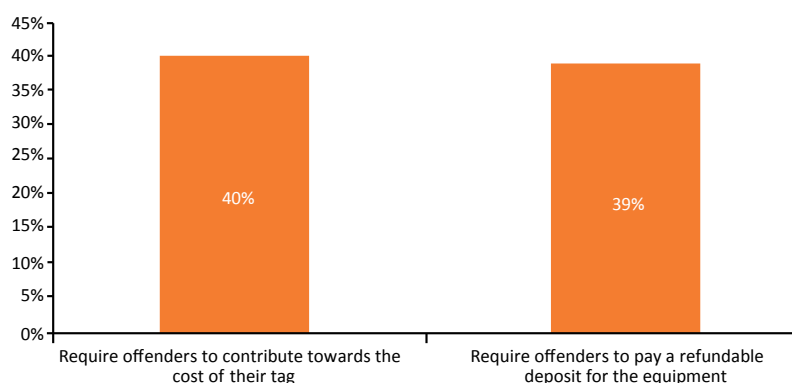
102 http://www.ias.org.uk/resources/factsheets/price_availability.pdf

103 Policy Exchange Polling on Electronic Monitoring, YouGov, 13–14 June 2012

Our exclusive public poll on electronic monitoring found that 40% of the public supported the idea of requiring offenders to contribute towards the cost of their tag. A near identical proportion (39%) supported requiring offenders to pay a refundable deposit for the equipment.¹⁰³ Consideration should therefore be given to how offender-pay models might be developed – ideally by giving local areas

the freedom to experiment. Preventing local areas from exploring such models potentially risks artificially limiting the number of offenders subject to electronic monitoring – whether they be on a voluntary or compulsorily scheme. Agencies in the United States recognise the limitations of a one-size-fits-all approach to payment models, giving rise to the development of mixed approaches in places like the City and County of Denver.

Figure 5.9: “Other countries take different approaches to those offenders who wear electronic tags. Which, if any, of the following measures would you support?”



Source: Policy Exchange Poll

The Ministry of Justice was asked to supply information regarding any legal advice that it had sought regarding the charging of defendants or offenders for their electronic monitoring (or other programmes). The Ministry replied that “the public interest favours neither confirming nor denying whether the requested information is held.”¹⁰⁴

The assumption among practitioners is that a compulsory sanction from a court that involves payment by the offender is unlawful, and if this is so (for reasons the Ministry of Justice refuse to reveal), then the only viable scenario for an offender-pay approach to tagging would be in limited pilots where offenders opt-in voluntarily. The retention of fitted equipment could also be expected to increase if offenders were required to pay a refundable deposit for any hardware.

Appendix A accompanying this report provides a detailed breakdown of the areas in which electronic monitoring could be used in England and Wales.

Aiding victims

There is an increasing desire on the part of criminal justice agencies to better meet the needs of victims. For example, respondents to our survey suggested, unprompted, the use of electronic monitoring to better serve the victims of domestic violence:

“The future for electronic monitoring needs to move toward the use of GPS tags ... it undoubtedly affords the victim protection while the offender is in the community and would be

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ideal in domestic violence (DV) cases. I am also interested in the voluntary use of GPS tagging for domestic violence victims, which could help create a buffer zone.”

Probation Trust, Policy Exchange Electronic Monitoring Survey

With the devolution of responsibility for and funding of victim services to local Police and Crime Commissioners from November 2012, it is reasonable to expect PCCs to consider how electronic monitoring can be harnessed to provide victims with a greater degree of both protection and reassurance.

Electronic monitoring technology can help redress the balance, providing victims with a greater degree and sense of security. In the United States it is common practice for probation officers or other law enforcement to inform the victim when electronic monitoring is used and for victims to be alerted in real-time to any breaches, with victims encouraged to follow a pre-determined safety plan.

Box 5.11: Safeguarding, reassuring and involving victims in the USA

Victims in the United States already have access to facilities such as VINE, a web-based Victim Notification service, that provides victims with the location and status of offenders, such as whether or not they are in prison and when they are due for release. Victims can also opt to have telephone, text message or email alerts sent to them when offenders are released or there is a change in their status. Unfortunately, no such system exists in England and Wales.

The provision of VINE is supplemented by an approach to victims that sees them informed about the nature of any electronic monitoring being used in relation to their offender and being provided with the option to receive immediate text or other notification of any breaches, such as the breach of a curfew or the presence of the offender within a specified exclusion zone.

Law enforcement officers develop a victim safety plan with a pre-agreed set of actions should the victim be notified of an alert. This helps protect and reassure the victim in the event of an offender breaching the terms of their order. Where GPS is used to monitor an offender, victims can also contact the offender manager in the event that they believe the offender approached them, and the manager can give them a direct answer as to whether or not this was the case, providing reassurance where victims are mistaken and the ability to instigate enforcement action where the offender has breached any no-contact requirements.

Both the recent NAPO and HMIP reports on electronic monitoring made reference to victims, though sadly in the context of failings. There is considerable potential for victims to derive benefit from the use of electronic monitoring, as evidenced by the approach adopted in the United States and through creative use of technology

Summary of the potential for EM

There is considerable potential for greater and more effective use of electronic monitoring across the criminal justice system and in relation to particular segments of the offender population.

The table below provides an overview of the usage areas and whether or not the use of electronic monitoring would in and of itself provide a cash saving, have negligible impact, or increase costs. Further information on each of these potential areas is contained in the appendix.

Table 5.1: Areas of potential EM use and cash cost

Area	Cash cost	Comment
Pre-trial		
Police bail	↔	Potential for EM to offset police resource costs of monitoring bail and improve compliance/enforcement
Court bail	↔	Potential for EM to offset police resource costs of monitoring bail and achieve savings through more intelligent use of custodial remand
Sentence/disposal		
Co-curfew	↓	Potential for savings through more competitive process and better understanding of activity when absent through use of GPS
Co-supervision	↔	Potential to make greater use of EM (tags and/or kiosks) to better manage risks and caseloads
SSO	↑	EM to be overlaid on existing Suspended Sentence Orders
Alcohol/sobriety	↑	Currently an unmet need/latent demand, so any use of EM would be an additional cost
Post-release		
HDC	↓	Potential for greater use of HDC releasing savings from the prison estate
ROTL	↑	EM to be overlaid on existing sentences, adding cost, but potentially offset by creation of more cost-effective work-release accommodation
Licence	↑	EM to be overlaid on existing sentences, adding cost
PPO and MAPPA		
PPOs	↑	EM to be overlaid on existing sentences for PPOs, but with potential to much more effectively target PPOs
MAPPAs	↓	Potential for EM to help free up police resources, providing savings

Based on our analysis of the unfulfilled potential for electronic monitoring (available in the Annex of this report), we have developed three scenarios for the expanded use of EM in England and Wales:

Table 5.2: Electronic monitoring scenarios

Scenario	Main difference	Avg. daily caseload	
		Additional	Total
Low	Assumes greater use of tagging with particular emphasis upon PPO and most serious MAPPA nominals.	+11,000	36,000
Medium	Adds greater use of EM during pre-trial and to those on suspended sentences (SSOs) and those on licence from prison under HDC.	+51,000	76,000
High	Extends to cover larger proportion of those on pre-trial bail, on SSOs and on licence.	+115,000	140,000

These three scenarios are set out in the table below, with an indication of the average daily caseload to be expected in any given year. Due to the complexity of the criminal justice system and local variations these are only estimates, but they provide an indication of the scale of EM use that could be attained.¹⁰⁵

Table 5.3: Potential EM use by projected scenario

Type of use	Projected scenario		
	Low	Medium	High
Pre-trial	12,500	20,000	30,000
Police Bail	2,500	5,000	10,000
Court Bail	10,000	15,000	20,000
Court order	11,500	35,000	60,000
Co-curfew	11,500	20,000	40,000
Co-supervision ¹⁰⁶	–	–	–
SSO	0	15,000	30,000
Alcohol/sobriety ¹⁰⁷	–	–	–
Post-release	4,000	21,000	40,000
HDC	3,500	5,000	7,500
ROTL	500	1,000	2,500
Licence	0	15,000	30,000
Other ¹⁰⁸	8,000	20,000	56,000
PPO	5,000	5,000	5,000
MAPPA	3,000	15,000	51,000
Voluntary ¹⁰⁹	–	–	–
Total	36,000	76,000	140,000
Current Caseload	25,000	25,000	25,000
Change in Caseload	+11,000	+51,000	+115,000
% Difference	+44%	+204%	+460%

¹⁰⁵ Figures may involve a degree of double-counting in relation to MAPPA and PPO nominals because of the quality of available public data.

¹⁰⁶ No estimates for supervision potential are included due to a lack of available data.

¹⁰⁷ Estimates for alcohol/sobriety schemes are hard to reach based on currently available data and the lack of any significant experimentation in England and Wales to date.

¹⁰⁸ For the medium and high scenarios the total figures exclude the MAPPA and PPO offenders as these are likely to have already been counted as part of the other categories.

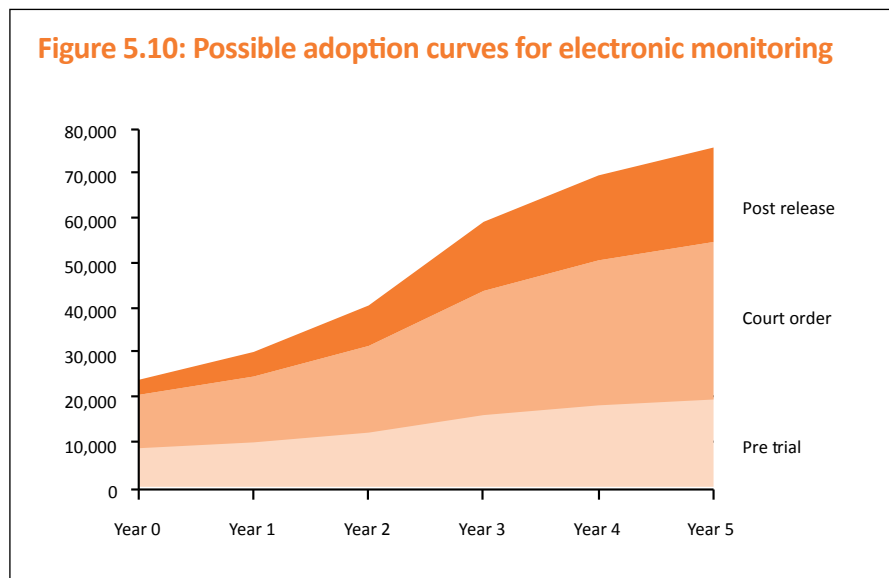
¹⁰⁹ No estimate is provided for voluntary schemes as these are likely to be small in scale and based on local priorities, funding availability and offender populations.

There is potential, at a minimum, for police and local agencies to apply electronic monitoring, in the form of either a GPS or combined RF and GPS tag, to all offenders in the most serious risk categories (Level 2 and Level 3). A more aggressive strategy could see approximately 15,000 MAPPA nominals on electronic monitoring, combining those on Level 2 and Level 3 with those deemed by the agencies to pose a higher risk.

If England and Wales were to follow the approach of many states in the United States to the electronic monitoring of registered sex offenders, it is reasonable to expect more than 40,000 MAPPA nominals to be subject to a GPS tag.

These scenarios are broadly in line with the assumed contract values associated with the on-going, but flawed, procurement process due to conclude in early 2013. Based on the published contract value for the new procurement and assuming no change in unit costs, we could expect an average daily caseload of up to 75,000 offenders to be on electronic monitoring under the new contract.

The chart below provides a view on how the medium scenario might be achieved over a period of 5–6 years. This assumption of a phased adoption is justified on a number of accounts, not least the commercial reality of manufacturing the required hardware, but also the time it will take for local agencies and sentencers to understand and gain confidence in the newest types of technology.



Based on assumptions about how sentencers might use the technology and what policy was being pursued, this modelling showed the expansion of EM over 5–6 years could be sizeable:

- A “low” scenario would envisage an expanded use of GPS-enabled tags, to apply to prolific priority offenders (PPOs) and the most serious-risk nominals enrolled in the MAPPAs regime, resulting in a 40–50% increase in total caseloads, and an additional 11,000 offenders being electronically monitored (a total of 36,000).
- A “medium” scenario would see over 51,000 additional wearers at any one time, with EM extended to ex-prisoners on licence under Home Detention Curfew, along with more use pre-trial and GPS-tags being overlaid onto some suspended sentence orders.
- A “high” scenario would see over 140,000 on an EM order at any one time (an increase of 115,000 on today), if the schemes were extended even more widely to cover additional offenders on licence from prison and more suspended sentences.

And as the costs and quality of the technology improve over the next decade, the range of cases where GPS tags might be used could be expected to expand even further, leading to a wholesale revolution in the criminal justice system in England and Wales and potentially less reliance on prison.

The consequent impact on the demand for prison places could be substantial, with the costs of an EM expansion more than offset by the savings made from a reduced prison population. To that end, an expansion of tagging could go a long

way to helping the Coalition government meet its strategic objective to “stabilize” the prison population by 2015. Net expenditure would also be reduced if the services were commissioned in a way that delivered the best price.

As we outline in Chapter 6, if the potential of electronic monitoring is to be realised and if the criminal justice agencies are to secure the best value and service, then radical changes are required to create a real market in which electronic monitoring is commissioned locally.

6

Creating a More Effective Tagging Regime

Radical changes are required if the potential of electronic monitoring is to be realised and another decade of stagnation and missed opportunity is to be avoided. This chapter outlines the areas that need to be addressed and provides recommendations to ensure that local areas in England and Wales are able to make the most of electronic monitoring, both in the short-term and sustainably into the future, while providing value for money to the taxpayer and protecting the public.

Local commissioning

Market leaders, in terms of both suppliers and customers, should be provided with the freedom to design, develop and contract services that work for and address their local priorities and needs. This point is clearly recognised and articulated by Tom Stacey, the founder of the Offender's Tag Association, who sums up the advantage enjoyed by practitioners and public alike in the United States:

“America has always had the advantage over Britain in its local devolution of jurisdictions to state or county levels, which allows for relatively daring innovations to be randomly introduced without exposing the Federal government if things go less than perfectly.”¹¹⁰

This devolution can be achieved in England and Wales by giving Police & Crime Commissioners (PCCs) – due to be elected in November 2012 – the commissioning option, from January 2014 onwards, to opt-out of the central electronic monitoring contract and in doing so take with them their share of the MoJ's electronic monitoring budget.

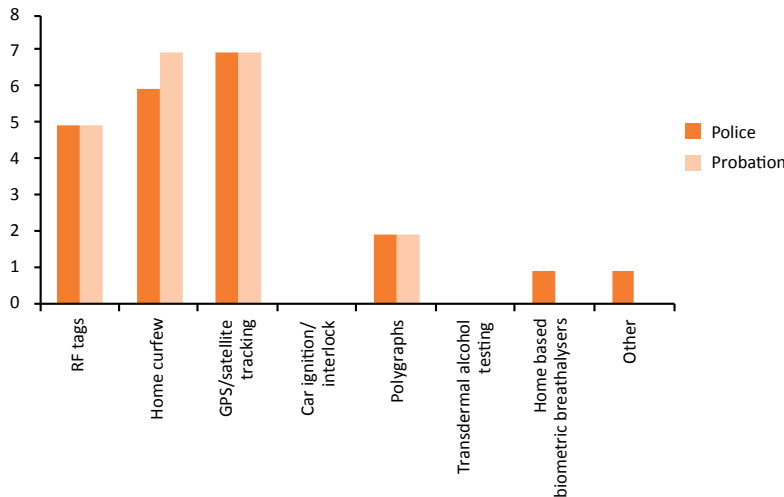
This would allow those who believe they can source a better deal to do so, and for that to be commissioned locally – or co-commissioned with other PCCs in a given region. Those who lack the confidence, or lack the bandwidth to manage procurement and integrate electronic monitoring within their commissioning work, could remain on the default contract for electronic monitoring agreed by the Ministry of Justice, with the option to reconsider every 2–3 years. This would provide incumbent providers servicing the default contract with some skin in the game, while ensuring a real market is able to develop as areas choose to opt-out and strike local deals with new providers over time.

110 Stacey, T., 'The right side of the track', *Public Service Review: Home Affairs*, Issue 24 (2012)

Box 6.1: Building on local innovation and experimentation

It is clear that several police forces and probation trusts have recently seized the opportunity to experiment with electronic monitoring technologies: ranging from variations on existing RF technology through to satellite tracking and polygraph technology.

Figure 6.1: Does your organisation, outside of any existing NOMS-led contracts, make any use of the following EM technologies?



Source: Policy Exchange Electronic Monitoring Survey

There have been a small number of pilots of the use of GPS by police and probation working together on the management of offenders, the most significant of which is in Hertfordshire and Bedfordshire. The substantial reduction in crime, such as in home burglary, these force areas have experienced is bound to attract the attention of other forces and Police & Crime Commissioners.

These experiments have typically been in spite of our centralised criminal justice system and have relied on specific local factors and the drive of certain police officers and staff to overcome barriers and obstacles, usually imposed by central government.

A number of police forces have already demonstrated that they are keen to see new technologies and electronic monitoring used more effectively, and there is clear evidence that they are able and prepared to contract with hardware vendors and others for the service:

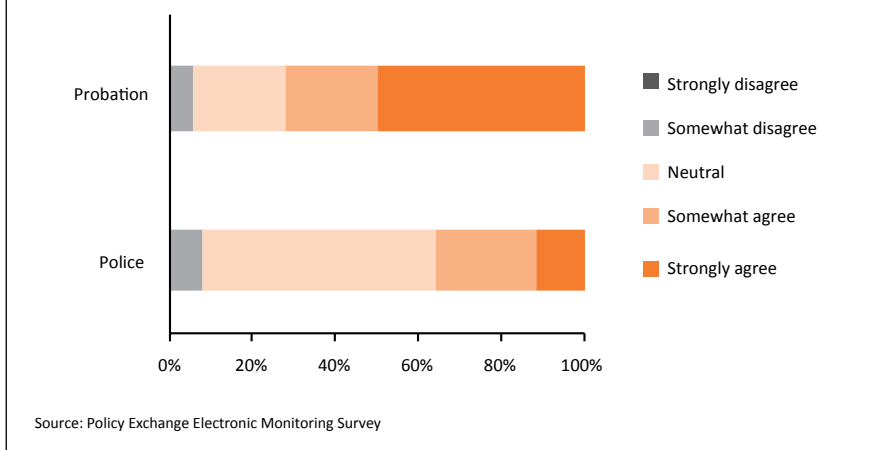
“[The current system] just isn’t as flexible as a locally-monitored scheme which is why we are forced to look at other options.”

Police Force, Policy Exchange Electronic Monitoring Survey

“[We should] commission electronic monitoring in accordance with local need and service delivery requirements.”

Probation Trust, Policy Exchange Electronic Monitoring Survey

Figure 6.2: “We could secure a better service and greater value from electronic monitoring if the contracts were agreed at a local level rather than by central government”



1 in 3 police forces who responded agreed that they could secure a better service and greater value from electronic monitoring if the contracts were agreed at a local level, rather than by central government. Probation trusts were even more convinced of the need for local procurement of electronic monitoring services, with 3 out of 4 (75%) agreeing with the same statement.

Given this clear expression of interest, criminal justice agencies should be rewarded with the freedom to procure electronic monitoring services at a local level, providing them with the ability to continue to innovate and to embed the use of electronic monitoring within their work to protect the public. The challenge for government, and the Ministry of Justice in particular, is to ensure that any future contracting arrangements are flexible enough to enable new programmes and technologies to be piloted and implemented and to overturn the historical situation whereby progress is stifled rather than promoted. This means giving local areas the freedom to opt out and to select their own partners.

Practitioner input

For the best use of GPS to be achieved, it is important that practitioners be involved in the design, development and operation of the programmes. Consequently, it is wholly inappropriate for the Ministry of Justice to foist GPS-based monitoring services – specified by civil servants in Whitehall – onto local areas.

Open standards for electronic monitoring, the local funding opt-out and the involvement of criminal justice practitioners at a local level in the design of the programmes would serve to open up the supply-side of the market by providing new and existing providers of hardware, software and other related services with the opportunity to win a share of the market.

Appendix B provides an indication of the potential funds available for local areas if they were to opt-out of the central contract, along with an indication of the number of offenders that they might consider tagging. Our analysis shows that every police force area in England and Wales has sufficient scale, in both

financial and unit volume terms, to be economically and commercially attractive to suppliers of electronic monitoring equipment and services.

Local areas would therefore not only gain the freedom to contract electronic monitoring services for offenders in their area, they would also gain the freedom to design new programmes and develop innovative and more effective approaches to reducing crime. A further upside to this approach would be much greater opportunities for SMEs and new entrants who are at risk of being excluded by default by the Ministry of Justice’s centralised procurement model, when they should be able to bid on a level playing field to win a share of the market.

With funding for electronic monitoring coming from the office of the Police & Crime Commissioner, the police should have a much greater input to the use and application of electronic monitoring. This should extend beyond input at the pre-sentence report stage of the process to include inputs to the licence conditions of offenders. For example, allowing police to request the application of GPS tags to prolific offenders (PPOs) as a condition of any release on licence. In many ways, this is a logical possibility flowing from the work of PPO and Integrated Offender Management (IOM) schemes across the country.

The local commissioning of electronic monitoring should also allow PCCs and local agencies to decide on whether to extend the use of electronic monitoring to offenders earlier in their career, before they reach their peak age of offending as PPOs. Whether through a voluntary or statutory scheme, this could further help to combat crime, making local communities safer and ultimately helping to stabilise the prison population.

The role of the Centre

Box 6.2: The role of the centre – national institute for justice and open standards

The National Institute of Justice recently published draft standards for electronic monitoring in order to help support the market that has developed. These standards are not over-prescriptive and are voluntary. They seek to share best practice – in terms of procurement, service delivery and specification – so that jurisdictions with less experience are able to maximise the effectiveness of their programmes.

The Ministry of Justice has a crucial role to play in the development of a mature and well-served electronic monitoring market. Unfortunately central government has done far more to stifle the market for EM than to develop it. Therefore the Ministry of Justice should:

- Focus on developing and publishing open standards for electronic monitoring and helping share best practice in electronic monitoring. The National Institute of Justice recently published draft standards for electronic monitoring in order to help support the market that has developed. These standards are not over-prescriptive and are voluntary.¹¹¹
- Terminate the current procurement that is underway for electronic monitoring. Our analysis shows that the current procurement is set to further stifle and

111 <https://www.justnet.org/corrections/pdf/Draft-OTS-Standard-for-Public-Comment.pdf>

concentrate the market for electronic monitoring for a period of up to 9 years. This will neither secure the best value for taxpayers nor the best service for the public.

- Roll over/re-tender the existing RF contracts for one year while devising the new local commissioning model, with a view to devising the best possible regime for the future.
- The Ministry of Justice should also be required to identify, for repeal or revocation, any legislation or policies that prevent local areas from developing their own programmes and publish the findings for consultation pending their repeal or revocation.
- Government should then make the necessary legislative changes to ensure that criminal justice practitioners at a local level are free to commission and develop their own electronic monitoring programmes.

Debunking the myths

Arguments that could be put forward against these proposed reforms include:

- **Economies of scale:** Critics will argue that the scale of the programme in England and Wales provides economies of scale and that to move towards a reformed model would simply drive increases in cost rather than reductions. The reality is that we have not managed to realize any economies of scale due to the poor procurement and contract specification. This has meant that outsourced providers have, in the words of the Inspectorates, “missed the point”.
- **Local bidding costs:** Critics will claim that a localized approach will add cost because many competitions will have to be run, rather than one. There is a cost implication associated with local procurement, however local agencies and practitioners believe they can secure a better deal and a better service, and there does not appear to be any other means by which practitioners shall be able to gain the freedoms they need to devise the most effective programmes, under a national contract.

However, rather than benefitting from economies of scale the large national contract has given us a system which excludes the very people it should empower. Other agencies, in the US and elsewhere, are able to operate effective schemes with mere hundreds, or even tens, of offenders. In the case of electronic monitoring in England and Wales, big is not beautiful and the increased costs of running local procurements can be more than offset by the improved service and the competitive pressure such competitions shall, at long last, introduce.

Recommendations

Electronic monitoring in England and Wales has not kept pace with developments in new technology, and the contracts over the last 13 years have failed to provide a service that involves practitioners, resulting in an unimaginative and uncreative approach to electronic monitoring and at a high cost.

Practitioners believe there is great potential for more effective use, and this is backed up by the innovative approaches seen in the United States, where a mature market has been allowed to develop. Brazil and a number of other countries that are new to electronic monitoring appear to be benefitting from local innovation in the use of electronic monitoring services for both offenders and victims.

Open standards for electronic monitoring, the local funding opt-out and the involvement of local criminal justice practitioners in the design of the programmes would serve to open up the supply-side of the market by providing new and existing providers of hardware, software and other related services with the opportunity to win a share of the market.

Appendix A provides an indication of the potential funds available for local areas if they were to opt-out of the central contract, along with an indication of the number of offenders that they might consider tagging. Our analysis shows that every police force area in England and Wales has sufficient scale, in both financial and unit volume terms, to be economically and commercially attractive to suppliers of electronic monitoring equipment and services.

Local areas would therefore not only gain the freedom to contract electronic monitoring services for offenders in their area – but they would also gain the freedom to design new programmes and develop innovative and more effective approaches to reducing crime. A further upside to this approach would be greater opportunities for SMEs and new entrants who are at risk of being excluded by default by the Ministry of Justice’s centralised procurement model, when they should be able to bid on a level playing field to win a share of the market.

The following are the key conclusions from the research into electronic monitoring and the ways to achieve more effective use of tagging in the criminal justice landscape:

- **More debate is needed about the scope and potential of tagging and recognition of past failures.** As practitioners are broadly supportive of using EM more effectively and potentially expanding its use, and the newest technology offers new options for sentencers and offender managers, then a public debate is needed about what the expansion of EM might realistically achieve, and at what cost – given the failures in the past. The lessons from existing tagging contracts, in particular the drawbacks of overly complex and poorly specified contracts with centralized procurement, need to be learned.

- **Expansion demands more scrutiny and transparency over costs and procurement.** There are sufficient grounds for an inquiry into the cost effectiveness of the current tender for the new national electronic monitoring contract. The level of current and proposed public expenditure on tagging warrants greater scrutiny and transparency, to help ensure taxpayers, practitioners, and offenders get the best value from the service. Tender prices should be visible, with contracts published for public scrutiny.
- **Allow for more voluntary programmes and pilots to aid understanding.** Aside from any new commissioning of compulsory tagging regimes, voluntary opt-in programmes can help avoid potential legal obstacles in the use of GPS and transdermal tagging technology in pre-trial settings. It is important that government does not prevent agencies from either offering voluntary programmes to offenders or from seeking to run their own trials or pilots on a voluntary basis. The Ministry of Justice should also be required to identify, for repeal or revocation, any legislation or policies that prevent local areas from developing their own voluntary programmes and publish the findings for consultation pending their repeal or revocation. Provision should be made for opt-in electronic monitoring pilots to be operated on an offender-pay model, including a refundable deposit element, with a view to seeking legal clarity on whether compulsory tagging orders might also recover some of their costs in future via co-payment by the wearer.
- **Involve practitioners and encourage more users.** Given the variety of uses on offer, the electronic monitoring of offenders should not be seen as the sole preserve of any one agency or external service provider, and the information and insight that it can provide on offender behaviour should be readily accessible to those agencies and individuals with a legitimate interest in the prevention and detection of crime and disorder and the rehabilitation of offenders. In particular, it should be readily accessible, with self-service functionality, to police and probation practitioners in the relevant supervising agencies.
- **Give the police a much greater say in the use of electronic monitoring.** Police forces are often best placed to judge the level of harm an offender poses to the community through their offending. The police should therefore have an integral role in making recommendations to sentencers and prison governors on the most effective use of electronic monitoring to prevent and detect crime as part of sentences or licence conditions.
- **Ensure electronic monitoring data is accessible to multiple agencies.** This will ensure the most value is realized from the monitoring while also providing the opportunity for innovative approaches, including crime scene correlation. This would help ensure swift and certain justice through increased risk and speed of detection. New contracts should provide for open-access to the monitoring software for the relevant local authorities.
- **Address risks to scheme integrity by reducing complexity.** The government should recognise that private providers can help improve efficiency and raise performance, but they can be motivated by a desire to maximise revenue – and ultimately profit. Where the delivery model and contracts are poorly specified, contractors can end up “meeting the contract but missing the point”, as the Joint Inspectorates have concluded. This must be at the front of mind as

the Ministry of Justice and government more widely pursues the policy of Payment by Results.

- **Target finite resources for GPS tagging on an expansion that offers the biggest crime reduction benefit.** Full study should be made of the crime reduction benefits of GPS tags in the UK context. At a minimum, it would seem wise for police forces and other local agencies to trial technology in relation to PPO offenders, and also MAPPA-eligible offenders, both across supervision levels and offender categories. If England and Wales were to follow the approach of many states in the United States to the electronic monitoring of registered sex offenders, it is reasonable to expect more than 40,000 MAPPA nominals to be subject to a GPS tag.

Therefore the Ministry of Justice should:

- **Focus on supporting the development of a competitive market.** If the potential of electronic monitoring is to be realised and if the criminal justice agencies are to secure the best value and service, then radical changes are required to create a real market in which electronic monitoring is commissioned locally. Market leaders, in terms of both suppliers and customers, should be provided with the freedom to design, develop and contract services that work for and address their local priorities and needs.
- **Recognise the speed of technological innovation in the EM space and move to shorter, more flexible contracts.** Tagging contracts signed at local or national level should seek to replicate the standard practice in the USA of short contracts with annual options to renew. This would help keep suppliers focused on delivering a quality service, while providing agencies with the ability to drop those suppliers who fail to deliver.
- **Terminate the current flawed procurement process and roll over the existing arrangements for one year to allow time to revise the tender.** As a new procurement round cannot be retendered and completed before 31 March 2012, existing contracts should roll over for another year and the procurement should be postponed with a new start date of 1 April 2014.
- **Revise the tender and localise procurement.** Use the opportunity provided by the arrival of elected Police & Crime Commissioners in November 2012 to devolve commissioning responsibility to PCCs and create a local market. Rather than rushing into another ill-fated and stifling national contract, this more radical approach would provide local areas with the freedom to innovate and develop solutions that work for them.
- **Give PCCs the right to opt-out of any national scheme** and use the assigned budgets for EM to commission (or co-commission with neighbouring areas), their own services. In future, elected Police & Crime Commissioners should have the right to opt-out of a national tagging framework and instead control the funding to commission electronic monitoring services locally. The amount available would vary depending on the police force area and the size of the current tagged population. The local commissioning of electronic monitoring should also allow PCCs and local agencies to decide whether to extend the use of electronic monitoring to offenders earlier in their career, before they reach their peak age of offending as PPOs.

- **Focus on developing and publishing open standards** for electronic monitoring and helping share best practice and new evaluations of EM trials. The National Institute of Justice recently published draft standards for electronic monitoring in order to help support the market that has developed. These standards are not over-prescriptive and are voluntary. Rather than stifling the market by imposing national contracts for extended periods of time, the Ministry of Justice should instead seek to support local areas by developing voluntary open standards.
- **Free local areas from statutory barriers to innovation.** Government should make the necessary legislative changes to ensure that criminal justice practitioners at a local level are free to commission and develop their own electronic monitoring programmes, even if only ones based on voluntary participation at this stage.

Despite the limitations and the poor design and delivery of existing electronic monitoring services in England and Wales, a new procurement round with the potential to cover many tens of thousands of additional subjects, combined with the maturation of superior GPS tagging technology, now means that we are on the cusp of a revolution in how traditional corrections are delivered.

There is widespread recognition that the potential of electronic monitoring has not and is not being realised. However, if policy is altered and the procurement process amended, then there is great potential for the improved use of electronic monitoring in England and Wales to reduce crime, aid rehabilitation, and save prison resources.

This is a view shared by practitioners, with our survey of practitioners finding that 90% of police and probation trusts agree there is potential for more effective use. Practitioners are also keen to make use of electronic monitoring and technology within mainstream offender management to prevent and detect crime and to aid rehabilitation.

The GPS tagging technology now available enables the development of a tagging regime that works: one that protects and controls offenders but also aids them to change. Constant supervision of a wearer's location accords with the academic evidence that certainty and swiftness of sanctions is more critical than the severity of any sanction ultimately invoked and is therefore the best basis for behaviour change.

If the new tagging regime is well designed, avoiding a repeat of the domestic experience of high cost and poor benefits and learns the international lessons of best practice with schemes that are locally-commissioned and that empower police and probation practitioners, then there is huge potential for the UK to improve the use of tagging in the criminal justice system and recover its world-leading position in the use of electronic monitoring.

By seizing the opportunity to create a genuine market in the provision of tagging programmes and by deploy the best technology that is integrated into offender management, then the potential benefits are significant.

Practitioners could enhance supervision and control in the community by creating smart supervision options thereby helping to reduce crime. The public will benefit from enhanced security of existing probation schemes but at less overall cost to taxpayers through the offset of savings made in unused prison

places. Tagging subjects themselves will receive a modern monitoring regime that maximizes the prospects for rehabilitation and targeted, bespoke support, but within the context of a robust and credible court order that deters breaches through the ever-present risk of detection.

With police and probation involvement and direction – even if privately supplied and managed – such tagging regimes offer the basis of a smarter crime policy with a variety of sanctions that can command public confidence as a complement, or even an alternative, to a conventional prison sentence.

England and Wales began using electronic monitoring relatively early, but since then progress has stalled, and the technology being used is fundamentally the same as that first deployed in 1989.

The last 13 years have seen almost £1bn of taxpayers' money paid to outsourced service providers, denying criminal justice practitioners involvement in the service delivery and any meaningful say in the design and development of the service.

Future of Corrections sets out the development of electronic monitoring in England and Wales and makes important recommendations on how the tagging regime must be reformed to ensure that electronic monitoring can be effectively used by frontline professionals to fight crime and aid rehabilitation.

In the future, the bottom line that matters must be crime and public safety. Adopting the proposals in *Future of Corrections* will allow a real market to develop driving service improvements and innovations that will leave us all safer and better off.

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