

Electronic Monitoring Has Become the New Debtors Prison

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It all started with a traffic violation. Antonio Green didn't have a license and admits he shouldn't have been driving. But when his mother's 1994 Chrysler Sebring broke down at a Taco Bell near their home in October last year, he decided to drive over to fix it.

When he apparently failed to flash his turn signal at an intersection, a cop pulled him over just after 10:30 p.m. in his hometown of Lugoff, South Carolina, about 30 miles northeast of Columbia. The police officer placed Green in handcuffs and took him to the county jail, where he waited overnight until his mother posted roughly \$2,000 in bail. One of the conditions of his release: Green had to wear—and pay for—an electronic monitoring bracelet. An unemployed construction worker who has five kids and lives on a monthly \$900 disability check, Green couldn't believe what he was hearing. "Pay for it?" Green says with disbelief. "I never heard of that."

He heard correctly. In Richland County, South Carolina, any person ordered to wear an ankle monitor as a condition of bail must lease the bracelet from a for-profit company called Offender Management Services. OMS charges the offender \$9.25 per day, or about \$300 per month, plus a \$179.50 setup fee, according to county documents obtained through a Freedom of Information request. If offenders don't—or can't—meet their weekly payments, they get sent back to jail. "People are pleading guilty because it's cheaper to be on probation than it is to be on electronic monitoring," says Jack Duncan, a public defender in Richland County. "It's a newfangled debtors prison."

Richland County is far from the only place in the United States that requires people to pay for their own tracking. In the past decade, similar electronic monitoring programs have become increasingly popular. Georgia, Arkansas, Colorado, Washington and Pennsylvania all now contract with private companies that require individuals to pay for their GPS bracelets, according to county and state records. While there is no centralized database on how often states charge defendants for their tracking, from 2000 to 2014 the use of electronic monitoring as an alternative to jail detention grew by 32 percent, according to figures provided by the Bureau of Justice Statistics. In 2014, NPR conducted (<http://www.npr.org/2014/05/19/312158516/increasing-court-fees-punish-the-poor>) a survey that found that "in all states except Hawaii and the District of Columbia, there's a fee for the electronic monitoring." One industry report now pegs the number of people under electronic monitoring in the United States at 100,000, and experts say that figure will likely grow.

Some prosecutors say electronic monitoring devices are a pragmatic way to address tight government budgets and overcrowded jails. "We're at peak incarceration as a society," says Alec Karakatsanis, a lawyer and a critic of the monitoring programs who co-founded the nonprofit Equal Justice Under Law. "A lot of these companies are devoting extraordinary efforts to shift their business model and profit off of that growing surveillance and supervision." Companies

such as OMS have effectively allowed municipalities to eschew the costs of monitoring offenders. The counties save money, the company makes money, and those like Green—many of whom are poor—are the ones who are forced to pay.

But some counties don't only save money by contracting out the monitoring programs—they profit from it. In Mountlake Terrace, a suburb north of Seattle, the city contracts with a small electronic monitoring firm, which charges the town \$5.75 “per client.” Yet the person placed on electronic monitoring actually pays the city \$20 per day, resulting in a net revenue for the city of “approximately \$50,000 to \$60,000” per year, according to Mountlake Terrace county documents.

OMS, the ankle bracelet broker, is a relatively small player in the business, but it is part of an industry that has made a fortune from an increasingly high-tech prison industry. OMS leases tracking equipment from Satellite Tracking of People, which is owned by Securus Technologies, a prison tech company valued at well over \$1 billion. According to one of the company's balance sheets, Securus recorded \$26.3 million in 2014 revenue from its new “offender monitoring systems” business after it purchased Satellite Tracking of People in 2013. Other companies are cashing in too. The GEO group, a private prison firm, purchased Behavioral Incorporated, the largest electronic monitor provider, in 2011 for \$415 million. And Omnilink, another large purveyor of electronic monitoring services, was recently acquired for \$37.5 million. “The first rule is follow the money,” says Duncan, the public defender. “And the big-time corporations are the ones who are getting into the business, because there's a lot of money to be made.”

With all this cash at stake, the prison tech industry has hired lobbyists to protect their coffers and establish relationships with corrections departments, especially at the state and local level. The country's largest private corrections company, GEO Group, spent \$2.5 million in 2014 on lobbying, in part for its electronic monitoring efforts. In a nod to how local relationships are often the most valuable, GEO noted in company documents that “approximately \$0.3 million was for lobbying at the Federal level and approximately \$2.2 million was for lobbying at the state and local levels.”

Although lobbying efforts have become routine, there are still very few state or federal guidelines that instruct county or state administrators on the legalities (or best practices) of the business. “I think that the companies don't want a clear-cut examination of the legal status of electronic monitoring,” says James Kilgore, a criminal justice researcher and activist who is working on a book about privatized electronic monitoring. Kilgore says the legal ambiguity of electronic monitoring offers companies like OMS more latitude to charge as they please.

There have yet to be any legal challenges to the Richland County electronic monitoring program, but several lawyers say forcing defendants to pay for their own tracking is more than just unethical. “The business model itself is blatantly illegal,” says Karakatsanis. “If it were ever challenged in court, it would be struck down immediately.” Cherise Burdeen, executive director of the Pretrial Justice Institute, a Maryland-based think tank, agrees. “Charging of offenders for their supervision conditions,” she says, “is unconstitutional and illegal.”

Robert Stewart, a spokesman and lobbyist for OMS, declined to comment on the legality of the devices (he says that's a question the courts should decide). But he says defendants like Green don't necessarily have to pay for anything. “They agree to be on it,” he says. “They don't have to take this. They can say, ‘I don't want to do it.’”

Saying no to the device, of course, means going back to jail. And whether or not that's a good thing, supporters say the devices keep the public safer. Yet critics, especially Kilgore, say it's a flimsy argument for electronic monitoring. "There's a mythology around the technology, that somehow authorities are in control of individuals who are on electronic monitoring," he says. A major reason: The technology is often used on minor offenders. Since the tracker program launched in August 2014—just a couple months before Green's arrest—judges in Richland County have made it a condition of bond hundreds of times, often for minor traffic violations or low-level misdemeanors, according to court documents and public defenders. "They've just gone berserk with it," says Duncan. "It's gotten out of hand."

Green agrees. He admits his license was initially suspended for a DUI, and his arrest record includes charges for domestic violence and disorderly conduct. He's tried working odd-jobs to support his family, but the money he's lost from the ankle bracelet has only pushed him further into debt. "I went through all my money," Green says. "It's just a rip-off."

To make matters worse, when Green's lawyer, William Cox III, made a motion in early August to amend his client's bond to remove the electronic monitor, the court informed them that the case had been dismissed on June 8. In other words, for two months Green's monitoring was completely unnecessary, but he was never reimbursed. "Unfortunately, he just sort of slipped through the cracks of the judicial system," says Cox. "I don't see how it's fair."

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