



Kriminalvården



Towards a Gold Standard in The Practice of Electronic Monitoring

***8th CEP Electronic Monitoring Conference
8th-10th November 2012, Bålsta, Sweden***

Conference Report

by

Mike Nellis and Delphine Vanhaelemeesch

Introduction

What, to date, has Europe come to think of as best practice in respect of Electronic Monitoring, and to what ideals does it still aspire? What are the “gold standards” we should pursue in respect of technology, service delivery, research and regulation? These were the questions which shaped the CEPs 8th electronic monitoring conference, hosted by the Swedish Prison and Probation Service, and held in Bålsta, Sweden in November 2012. To many countries in Europe – though still not to all - electronic monitoring is no longer new. There is a lot of experience, and a fair amount of research. The CEP has devoted sustained attention to it, and the Council of Europe has signalled the kinds of regulation to which it should be subject. When necessary, Europe has learned about the possibilities and pitfalls of EM from other countries, but increasingly it is itself a touchstone for developments elsewhere. Not all uses of EM have been wise, and, under pressure, policy makers will sometimes seek the expedient rather than the best. Some people comfortably embrace the forms of EM we have now, some long for better forms (notably GPS tracking) and some still fear where the technology in general might lead us. So, in thinking about a “gold standard” for EM in all its aspects we should remember that it is not EM in itself that we are judging, but the contribution that EM could and should make to civilised and constructive criminal justice systems, which make only sparing use of imprisonment and which are as firmly committed to the rehabilitation and reintegration of offenders as they are to public protection.

After the last CEP EM conference in Évora, Portugal, a formal request was made by CEP to the Council of Europe’s European Committee on Crime Problems (CDCP), asking if it would give consideration to devising a set of standards and principles in relation to the use of EM, given the scale on which it was now being used in Europe, and the evolving nature of the technologies



involved. This was also consistent with our conference theme of “the gold standard”. Currently the Council of Europe’s “Probation Rules” contain only two paragraphs on EM, one recommending that EM is always used to support rehabilitation, the other (far easier said than done!) recommending that it is always “in proportion” to the seriousness of the offence for which it is imposed. Something more by way of the “soft law” which the Council of Europe makes seems necessary now, for individual sovereign countries to consult when devising their own legislation and policy, perhaps even for the European Court of Human Rights to use if ever EM cases come before it. The task was accepted by the CD-CP, and devolved to the Council for Penological Co-operation (PC-CP), with the proviso that it did not prepare too legalistic a document, and restricted itself to the use of EM in the community, excluding any emerging uses of it within prisons themselves. Over the past year the PC-CP has drafted a provisional “working document” and this was sent to the CEP for detailed scrutiny by delegates at the Bålsta event.

It is clear that the CEP EM conferences have themselves become a marker of EM’s international development. Each time they are held more people want to attend. This conference had 200 delegates from a wide range of countries, not all of which were European: Albania, Austria, Belgium, Canada, Colombia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Gibraltar, Ireland, Israel, Japan, Korea, Latvia, Luxembourg, Moldova, Netherlands, Northern Ireland, Norway, Poland, Portugal, Saudi Arabia, Scotland, South Korea, Sweden, Switzerland, Thailand, Turkey, England and Wales, United Arab Emirates and USA. Commercially, the EM landscape is changing too, with more and more - often small - companies entering what is seen as a still growing global market in EM, especially in respect of GPS tracking. Apart from the three sponsors themselves (G4S, 3M and Serco) the following companies also sent representatives to this event : Geosatis Technology; Künzler & Partners SA ; The Care Agency ; Tyco Int. ; Securiton ; Carlsson EMCo AB ; Y3K Security Tec.Inc. ; Buddi ; Sentinel ; Sodexo Justice Services ; Monetor Ltd ; Capita ; Guidance ; Scandinavian Radio Technology AB ; Communication Dynamics AB ; B&M Systemutveckling AB and GEO Group Inc.

The following document is not an exhaustive summary of what was said at the 8th EM conference. It synthesizes and clarifies ideas, paraphrases and sometimes simplifies arguments, but hopefully conveys a clear sense of the discussion which took place, and stands as a document - state-of-the-art comment on EM - in its own right. More details of the actual presentations can be found on the CEP website.

Opening Speeches

Mr. Ulf Jonson, the head of the Swedish Prison and Probation service (Kriminalvården) was honoured to be hosting the 8th CEP EM conference. This conference, he said, has traditionally brought together a variety of people working in the field of probation and the criminal justice system to inspire and to innovate, and this one would be no exception. Sweden, he acknowledged, was the first European country to introduce EM as an alternative for imprisonment. He outlined its evolution in the host country, anticipating - like a number of countries - a future use of GPS tracking to supplement existing Radio Frequency forms of EM. He concluded by suggesting that there is probably no one way of determining or meeting a gold standard, but he hoped the conference would be productive and interesting, and take us in the right direction.



Mr. John Scott, the acting Secretary General of CEP, welcomed the participants to the conference, emphasising their varied international backgrounds. He thanked Ulf Jonson for hosting this conference, and the technology/security companies for sponsoring it once again – G4S, Serco and 3M (formerly ElmoTech). He hoped the participants would leave the event with greatly improved knowledge about EM and that, in addition, there would be two further concrete outcomes:

1. Feedback to the Council of Europe about its provisional “working document” on EM, based on discussions in workshops at the conference.
2. Some conclusions, tentative, if not definitive, as to what the gold standards - the best practices - in EM are, or might be.

The Plenaries

The Quest for the Gold Standard

Professor Mike Nellis, Emeritus Professor of Criminal and Community Justice in the School of Law, University of Strathclyde opened the conference by outlining the kind of considerations that a quest for the gold standard in EM might entail, and laid the foundations for subsequent presentations. He began by emphasising the hold that the gold standard of “rehabilitation” rightly still had on the penal imaginations of many European countries, and certainly their probation services, but acknowledged that by the end of the twentieth century when EM was first developing, more attention was rightly being paid to crime victims’ needs and interests, and to public protection. Sometimes, this threatened to eclipse rehabilitation. EM was always associated with control and surveillance, and Mike recognised that in modern Europe, surveillance technology was often looked upon with scepticism, because, even in living memory, it had been, and could still be, put to bad purposes. Nonetheless, in respect of EM, at least, Europe as a whole seemed to have done well - so far - in terms of shaping it to good purposes. The story was by no means a negative one: EM was in many cases still subordinate to rehabilitative aims and constructive penal purposes. CEP had played a major part in encouraging this and while the current European Rules on Community Sanctions and Measures’ two references to EM (on rehabilitation and proportionality) were no longer adequate to all the challenges that EM posed, and might pose in the future, they still remain a useful starting point for professional debate. EM, Mike argued, should be understood as a form of “penal informatics”, one of enumerable ways in which information and communication technology - and particularly location monitoring - was now pervading all aspects of social and political life and changing traditional practices in business, education, criminal justice and everyday life in not always foreseeable ways. Ordinary people have been prepared to give up their “locational privacy” (e.g. to receive mobile phone calls) and what EM technology does - pinpoint the location of offenders - no longer seems particularly extraordinary or draconian. The manner in which EM developed in the future would be affected as much by attitudes towards technology, and the place governments (and citizens) want it to have in contemporary life, as by attitudes towards punishment. Drawing on an idea developed by Nuno Caiado, the national manager of EM in Portugal, Mike agreed that EM was a kind of “penal third way” - not sufficient to bring about reductions in the use of imprisonment on its



own, but not so mundane that it should be regarded as nothing more than a simple addition to the list of existing community penalties. It created new supervisory possibilities, new ways of combining care and control. He admitted that EM was not without dangers - dystopian visions are easily conjured from such a technology. Nonetheless, 21st century governments will continue to be tempted by it, and whatever reservations and fears probation services may still have about EM technology they do need to grasp the opportunity it gives to reduce the use of prison, and to shape the way it is used - as our conference host, Sweden, had done from the outset. At the same time, we should not, as MIT Professor Sherry Turkle said in another context, “expect more from technology than we do of ourselves”.

The “Complicated Business” of EM : Implications for the Gold Standard

Ms. Liz Calderbank and Mr. Mark Boother from the Anglo-Welsh Probation Inspectorate reported on their 2012 inspection of EM service delivery in England and Wales, following up an earlier one in 2008 undertaken jointly, in both cases, with the police and court inspectorates. The 2008 report pointedly called the contracting and service delivery arrangements in England and Wales “a complicated business”. It emphasised that bridging the public/private divide in service delivery - and its corollary, creating integrated use of EM - was inherently complicated, and perhaps impossible - but that nonetheless within prevailing policy frameworks ways of defining and achieving best practice still had to be found. It is outside the Inspectorate’s mandate to criticise government outsourcing policies as such – they can only inspect and comment on operational matters – but the speakers stated openly that at central government level there seemed to them to be a lack of overriding, coherent penal purpose in the use of EM in England and Wales, beyond seeing it as a (usually) short-duration punishment in a community sentence or licence. Stand-alone electronically monitored curfews are clearly being used as an additional punishment for people convicted of minor offences that would not normally attract a prison sentence. Perhaps it is a mistake to expect much else of stand-alone orders. Their conclusion in 2012 is that EM remains “complicated”, and that basic communication between the probation service and courts on the one hand, and the commercial service providers on the other, is still poor. Their 2008 recommendations to improve communications and, crucially, to integrate EM into “offender management”, both strategically and individually, merely resulted in small changes (in some regions of the country more than others). Nowadays, “strategy” concerning EM remains hard to find. EM-curfews have rarely been used to best effect in community sentences, as the curfew has been unrelated to the circumstances of the offence. The use of EM is still ideologically driven (community orders *must have* a punishment element) ; it is growing because of costly prison overcrowding, and may save some prison spaces, but it is not being used systematically or strategically to constrain increases in prisoner numbers. A once-hoped for discussion with the probation service about how EM could be used well never happened - yet having a coherent strategy for EM is vital to achieve any kind of professional gold standard. Such a strategy needs several elements, for example, clarity about the objectives (e.g. reduced reoffending), good communication between all stakeholders and transparent and flexible operational rules (e.g. about breach). EM should be used in ways and contexts that realises its full potential. In England and Wales only the use of Radio Frequency EM in the context of Multi-Agency Public Protection Arrangements (MAPPA) (mostly targeted on serious sexual and violent offenders

released from prison) is exemplary : the still widespread, indiscriminate, low-tariff use of stand-alone EM continues to give cause for concern. A representative of the by the Ministry of Justice defended evolving EM practice in England and Wales, argued that constructive notice had been taken of the Inspectorate reports and that the procurement strategy currently being undertaken to restructure the ways in which EM services are delivered would address the issue of integration.

Developments in Electronic Monitoring Technology

Dr. Colin Wilson, an engineer from the British Home Office's Centre for Applied Science and Technology gave a lucid exposition of various EM technologies. In his overview, he averred that not all the technology is perfect and wonderful. It can be oversold, creating false expectations of what it can accomplish. One does not always hear this from engineers, but Colin was mindful of the stakes involved in designing good EM systems and implementing it right. Criminal justice professionals and procurers of EM technologies for governments need to be as well informed as possible about upcoming developments in EM, whether tracking, biometric measurements and remote alcohol monitoring - their limitations as well as their capacities. Radio Frequency EM is used to monitor a subject at a specific location (usually the home) ; what is still not widely recognised by professionals is the variable range of the radio signal ; rarely is there a perfect fit between this and the shape and size of an offender's home, which can lead to blind spots, and sometimes to legally significant arguments about whether someone was indoors or not.

GPS technology can be utilised to monitor general whereabouts and the perimeters of exclusion zones, but can also be used to effect curfews and house arrest (creating small inclusion zones, or "geo-fencing"). GPS is nowadays frequently perceived as the next logical upgrade from Radio Frequency curfew monitoring, and while it is improving and getting cheaper, it still requires augmenting with other tracing technologies if reliable results are to be achieved. Mobile phone networks (apart from being the means by which location data is uploaded to monitoring centres) are used to improve GPS accuracy both outdoors and especially indoors; in future both existing Wi-Fi networks and a global terrestrial tracking system called "eLoran" (hitherto used for maritime navigation) may come into play. Ways of improving quality of signal and prolonging battery life are ongoing, but remain problematic. *Biometrics* are still relatively rare in EM: they facilitate "intermittent" rather than "continuous" compliance (e.g. with agreed levels of alcohol intake, or agreed presence at particular locations, confirmed by voiceprints). *Remote alcohol monitoring* through home breath testing or trans-dermal (skin) sensors may increase in importance, raising new practical and ethical issues.

Colin emphasised the importance of goals and purposes in choosing and testing EM technologies - specify clearly what is wanted, and then identify the best technology to achieve it. Is the available technology able to achieve it? He described how his team assess the quality and potential of the various companies' equipment on behalf of England's Ministry of Justice. Testing is important because complex technology is unpredictable; some can be tested in the lab but some can only be done in operational environments. Some current technical challenges are remedying curfew blind spots, detecting drug use, preventing incorrect fitting, creating reliable self-installation technology ("plug and play") and facilitating automatic interpretation of tracking data. Colin concluded, referring to the theme of the conference, by saying that no final gold standard for the

technology exists. Improvement is always possible, which makes it foolish to make predictions of how we might do EM in the future. People always do clever things and there is no limit in the end. Innovation is vital, but driven by the demands of market on the one hand, and government on the other, it may be as threatening to existing professional interests in offender supervision as it is supportive of them. It all depends on the predominant goals of the programme. The technology, and especially tracking, is not a magic bullet ; no matter how much it increases the likelihood of detection cannot directly affect rehabilitation. The effectiveness of EM rests on the willingness and capacity of the person subject to it to cooperate with the rules and regulations imposed on him or her.

Council of Europe : Towards a “Recommendation” on EM

The second conference day had a more practical orientation, opening with small working group discussions on the Council of Europe’s PC-CP “working document”. **Ms. Soraya Beumer, Rotterdam area manager of the Dutch Probation Service** explained the background of the Council of Europe’s work on EM, and outlined what was expected of the working groups. By drawing on the collective wisdom of the conference delegates, who could judge the value of the emerging document for their own countries and agencies, it was hoped to generate feedback which would inform further iterations of the Council of Europe document, on its path towards becoming (hopefully) a formal “Recommendation”, the kind of soft law which the council produces in order to influence policy in 47 member countries, and sometimes, the Court of Human Rights. The precise outcome is uncertain, although the obvious advantage of a “Recommendation”, separate from the existing “Probation Rules”, is that it takes account of the fact that now both prison and, increasingly it seems, police services are also involved in EM’s administration.

The feedback from the workshops was rich and thoughtful. The delegates worked hard and their efforts were much appreciated. There was a clear consensus that the “working document” was going in the right direction and that it was pitched at the right level of generality and prescriptiveness. Some countries would have some difficulty aligning their EM practice with all the points in the working document, but these are precisely the things that need to be argued about, nationally and trans-nationally. Among the several new issues identified, and maybe not covered in the document, was the suggestion that the health and safety aspects of EM should be considered as human rights issues - who, for example, might want non-removable metal tags? Private sector representatives were concerned that the document should not be prejudiced against service delivery by them, or portray them as having no ethical standpoint. GPS tracking raises novel “data protection” issues - for example, can a person, technical issues notwithstanding, *legitimately* be tracked across national borders, into an adjacent country which may not have approved tracking? Some of the points raised in the workshops were embodied in the commendations made to delegates themselves at the end of the Bålsta conference by John Scott in his summing up (see below), and these were passed on to the Council of Europe. Others will be passed on privately.

Research on Electronic Monitoring

Dr. Stina Holmberg, a researcher at the Swedish Institute of Crime Prevention and an associate professor at the criminology department at Stockholm University summarised the worldwide state of research on the effectiveness of EM with particular emphasis on the reliability of the methods used. Before doing the overview of research, Stina explored recent policy developments in respect of EM, because this affects the nature of the research that gets done. Firstly, EM is used for many different purposes - there is rarely a behavioural “effect” of EM as such, it is always measured in relation to the goals of the programme in which it is embedded. There may be other elements in the programme as well as EM, and gauging the separate effects of each can be difficult. Purposes include: raising offender accountability, behavioural change and recidivism reduction, reduction of prison populations, reducing costs of imprisonment and increasing public safety. These are not always congruent with each other, and cannot necessarily be mixed in the same programme. In addition, EM is used in a number of legal contexts: as a community sentence (with or without probation), as a conditional prison sentence decided by court, as an alternative for those sentenced to short prison sentence, as early release of prisoners, in open prisons to reduce staff or in pre-trial detention. As might be expected from the growing diversity of EM’s use, more and more people get EM. In 2006, a European overview indicated that there were 75.000 persons on EM. One hundred thousand persons are estimated to be on EM in the USA. A troubling lack of recent data exists, although the continuing take-up of EM by new countries suggests expansion: nonetheless, more up to date survey research is needed. Recently a pressure group has suggested that the use of GPS-EM in England and Wales could feasibly be increased to 120.000 persons per day in five years.

Some research suggests that while there is clear evidence that integrated forms of EM can be useful at both reducing recidivism and facilitating decreased use of imprisonment, schemes of this kind are not in fact widespread. Based on her overview of recent effectiveness studies, Stina made a series of observations and recommendations that might improve it still further, some of which were commented on by participants. The following is a composite of the points raised:

- Use EM more often than today as a tool in a whole package aiming at social and behavioural change. Stand-alone EM for short periods, while maybe having a crime suppression effect over the period of the order, seems to have limited use as a means of influencing lasting behavioural change
- Make flexible individual adaptations, tailored to individual circumstances, and give positive feedback and support to help offenders comply with EM schedules and locations.
- Give more positive incentives for offenders on EM to motivate their compliance with it: don’t over-use the threat of punishment and breach as a means of managing an EM order.
- Always consider how EM affects the offender’s family and housemates and whether the burdens imposed on them (if that is how they are seen) are legitimate.
- Beware of the risk of net-widening, of using an onerous penalty like EM to low down the tariff - this is an especial risk of stand-alone EM.



- Don't use stigmatizing technology – e.g. large visible, uncomfortable tags. Comfort and discreteness may well make compliance more likely.
- Reduce technical failures - ensure, for the client's and family's sake, that the technology and the administration of EM work as smoothly as possible, without friction, to avoid the unnecessary antagonism of people who may already find compliance difficult.

Private and Public Sector Delivery of EM

Professor Dan Kaminski, Professor of Criminology at UC Louvain (University of Louvain-la-Neuve, Belgium) gave a passionate, although still not wholehearted, intellectual defence of the public administration of EM. He was profoundly sceptical of providing EM through the private sector, but recognised that state agencies will themselves readily adopt commercial and managerial practices from the private sector. States, in fact, always remain in control, even when EM is contracted out: they are forced to pick up the pieces if private contractors ever fail or default. We should be careful how we use the term “privatisation” - the presence of commercial actors in criminal justice is real enough, but it is the composition of the state that is changing. Dan offered several (for him frustrating) reasons for the increased participation of the private sector in EM, including a) an uncritical “technophilia” and the creeping “digitalisation of control”, as if machines might somehow be better at managing offenders than people, and b) the desire to outsource care and support by the state to an already overburdened civil society - the family, the employer and the community, which can also be understood as a kind of “private” sector, complementary to the commercial one. He highlighted various existing forms of relationship between the public and the private sector in European countries, noting that England and Wales are more or less unique in completely outsourcing EM to commercial organisations. Others are characterised by a more mixed arrangement: the private sector delivers or/and installs the material while the public sector is occupied with the supervision of offenders and defendants. Social work-based interaction with offenders is preferable to “stand alone” EM, if only on ethical grounds. In Dan's view, private organisations may not be susceptible to such ethical arguments ; their root concern is necessarily with competition and profit, and with whatever “business models” enhance these. The private sector is insatiable, always aiming to increase the scale of its operation, making the case for more and “upgraded” EM (and prisons), creating incentives for penal expansion (by which governments may well be tempted). Their “efficiency savings” (lower cost services, reduced salaries) challenge the state sector to match them, with resulting lower standards of service all round. While it is always up to state officials to choose how to do EM, the private sector, once “invited in” to supply penal services, becomes a voice to which the state listens, whose “needs” are attended to. There are significant differences of attitude towards public sector provision between “minimalist” and “maximalist” states, but as noted above, even minimalist states shape what private sector contractors do: full responsibility remains with “public government”, risk transfer is actually an illusion. So long as EM is packaged as being an economical measure - cheaper and more efficient - states will be seduced by private sector claims for it. If, on balance, the social and economic costs of EM proved to be greater than is commonly realised, then the private sector might lose some purchase on penal policy, although that is not guaranteed.



In line with the conference theme, Dan addressed the question of “best practice” in a socio-economic context in which he found none of the options congenial. “Best practice” for the private sector may simply mean selling more of its product, expanding the business, creating innovation. For the state, “best practice” might mean increased efficiency of administration, regardless of other human consequences. “Best practice” in penal (or social work terms) terms must mean respecting persons and rights, but in regard to offenders, these may not actually be high priorities for either states or commercial organisations, even if lip service is paid to them. Forced to choose, Dan commended a minimalist version of privatization (where the state purchases the equipment, nothing more), in which EM is integrated with, and subordinate to a supportive service undertaken mostly by trained state-based professionals. He accepted that public authorities should not or would not abandon the promise of various information and communication (and control) technologies - innovation can be a good thing - but insisted we consider the questions of who drives it, for what purpose, to whose gain and how far should it go?

Needless to say, Dan’s presentation was controversial. A private sector representative insisted that he and his organization had moral values which constrained the kind of countries and agencies he worked with. Dan reacted by acknowledging that the market can and does permit this, but that the bottom line of commercial interest must always be profit, because survival in the market depends on it. A morally minded company, or its chief executive, can successfully refuse to do “dirty work” and perhaps claim the moral high ground, but elsewhere in the market as a whole there will inevitably be another, less scrupulous company who will seize the “business opportunity”. In that sense, it does not pay to have a conscience. Some individual capitalists are indeed moral, and will still find sufficient markets to make a profit, but capitalism by its nature as an economic system is not inherently moral.

Crime Victims and EM

Professor Edna Erez, Professor of Criminology, Law, and Justice at the University of Illinois at Chicago described the results of her evaluation research into the use of pre-trial GPS tracking of domestic violence perpetrators in six US States, focusing on the victims. In these programmes victims were not themselves tracked (as in some European schemes), but the whereabouts of the defendant/perpetrator was known to the authorities all the time. She suggested that the experience of the victims can be taken two ways. Firstly, they like the GPS program for several reasons. It gave them freedom to move about without worrying if the defendant was nearby - they appreciated the increased number of places they could visit. They had the feeling of “getting their lives back”. The visits or calls by police or other agency staff and the option of calling for advice on 24/7 basis were also highly valued features of the scheme. The specification of exclusion zones, which is a key “protective” characteristic of the GPS system, were also appreciated. In addition, the defendant’s relative freedom (as opposed to spending the pre-trial period in prison) was also advantageous to the victims, it meant that their former partner and possibly co-parent could continue working and thereby maintain his financial responsibilities in respect of the family. Their life was made stable and orderly, because of the GPS-monitored schedule they had to follow. Overall, in these schemes, the formerly abused victim had the feeling of now being in the driver’s seat: having a sense of control over the relationship with the perpetrator emerged as a strong finding. Nonetheless, victims can experience some problems. They sometimes feel uncomfortable, confused and anxious regardless of

the protection afforded by the technology. They may worry that they get insufficient information about the perpetrator/defendant, they fear that he or she will find a way to overcome the technology, or that the GPS will fail. More practically, the fact that people on GPS have to pay “equipment fees” for participation in the program sometimes hurt the family, by making it harder for them to fulfil their financial responsibilities.

Edna stressed, in the main, how useful and empowering women victims found the GPS tracking of defendant/perpetrators. Objective research evidence does seem to confirm that these schemes are advantageous to women. The jurisdictions that use them exhibited lower dismissal rates (or higher conviction rates) when the cases finally appeared in court. This seems to be due to the fact that because victims are empowered during the pre-trial phase, they do not lose confidence, while abusers themselves, forbidden from making any unauthorised contact, are effectively prevented from intimidating or persuading their victims to drop their complaints. Anomalies have sometimes arisen, if a victim herself is charged with violence (committed in self-defence), she may be made subject to pre-trial GPS tracking, and if she needs to stay at home to care for children, she may be easily found by the abusive partner. Judges still need educating about how to use GPS in a domestic violence context, but Edna’s research clearly suggested that a well-designed and administered GPS tracking scheme in a domestic violence context can be a “win-win” experience for all stakeholders, and particularly for victims. The role of human supervision is never obviated by technology, however - it is important that programme staff continue to assess and work with the changing needs and volatile emotions of both parties to the domestic conflict.

Developments in EM in Australia and the USA

Ms. Marietta Martinovic, a lecturer in Criminal Justice Programs at RMIT University in Melbourne (Australia) described by video conference her ongoing research comparing the development of EM in Australia and the USA. Her main research question is ‘What has been the evolution of Home Detention Based Sanctions (HDBS) frameworks and their associated outcomes in the USA and Australia particularly over the last 30 years?’. She set this in the context of a historical analysis - an early phase of community supervision (1840s-1960s), and a middle phase, (1960s-1980s), in each of which the rationale for and the outcomes of working with offenders in the community, outside prison, differed from each other, and from the present period (1980s-2000s). “The home” and “the family” have always been important, if under-acknowledged “penal sites” in community supervision; it is only the advent of EM (home detention, home confinement) that has brought this into prominence. It ostensibly makes the home a place of punishment and impinges on other members of the household more directly than any other form of community supervision. Using EM punitively has been characteristic of the USA, and punitive rhetoric accompanies all manifestations of EM, even in Australia. Nonetheless, while EM is an inherently controlling measure it need not be used punitively, or experienced as punishment by offenders (or their families!). It is a characteristic of the present phase of community supervision/home detention-based sanctions that more attention has been paid, however imperfectly, to “what works”, and such evidence as has been assembled on EM does not support the view that it is best used in straightforwardly punitive ways. It can be experienced by those subject to it as helpful and constructive. Good EM programmes are those which are integrated with supportive measures, and indeed which support offenders to

comply with the onerous demands of EM, and which are aimed at rehabilitation and reintegration. The ingredients of good practice are:

- A sustained, well-informed and collaborative, multiagency relationship with all relevant stakeholders in EM programmes: EM is not a thing in itself, set apart from all other penal measures. All those involved in managing community supervision should be well informed about its capacities.
- Appropriate and adequately resourced rehabilitative and reintegrative initiatives, in which EM can play a part, without excessive expectations being placed on it.
- Individually tailored conditions and optimal order length to be imposed on offenders. Optimal order length varies with type of programme ; offenders are typically on parole with EM for longer than they are on a sentence. American EM-sentences or parole licences , which may run for years, are not optimal.
- EM operates best within an effective service delivery model where all staff, administering the sanction have clearly defined goals and procedures, including those relating to breach. Clear expectations must be communicated to offenders about their particular EM regime.
- As with all forms of community supervision, there needs to be an on-going, independent evaluation process, not just of pilot schemes, but of mainstreamed schemes. These need to measure outcomes against agreed goals, and to be sensitive to unforeseen consequences.

These lessons from research hold good for both Australia and the USA - and indeed Europe - but that does not mean that they are honoured in either. It is easier to speak of “evidence-led policy and practice” than to practice it. However, if agencies do not incorporate and act upon “what works” evidence, in respect of all forms of community supervision, not just EM, progress will be no greater than in the past. The humanitarian principles which informed the earlier phases of community supervision, particularly the values associated with probation, need to be preserved where they still exist, and re-asserted where they are failing. EM should not be used as an excuse for abandoning humanitarianism because it is notionally a [technologically] better way of supervising people. Unless humanitarianism is infused into it, it will not make an effective contribution to changing offender’s behaviour. We know now what this requires: EM should be moulded to fit it. The challenge for contemporary policy makers will be to change the prevailing punitive agenda in order to implement the research-based lessons of best practice, and to avoid a situation where all community measures, including EM, are judged by how punitive they are - a criterion against which many will inevitably be considered failures. Marietta informed us of a well-run EM programme in her home state of Victoria being shut down due to a belief in the ruling conservative government that the sanction was not punitive enough. This may have happened in various parts of the USA - but this is the first time it has happened in Australia, and it is a worrying sign for anyone who wants to use EM as a constructive, supportive form of control. Evidence suggests that offenders do experience EM as onerous and

demanding, they absolutely do not deserve a soft on crime image. Thus far, closure of programmes on “insufficiently punitive” grounds is not something one hears happening in Europe – although voices which demand it certainly exist – but it is a useful reminder that for some political constituencies the dominant anxiety is that EM, far from being the fearful, Orwellian technology of over-control that many believe it to be, is actually perceived by others as an all too dispensable technology of under-control.

Professionalising EM in the Netherlands

Mr. Michiel van der Veen closed the conference with an uplifting account of his work as a **consultant with the Dutch Probation Services (and also a part-time judge)**. In the Netherlands, a strong belief in integrating EM with probation supervision has always been present - this is part of what is understood in the Netherlands as the golden standard for EM. Nevertheless, the precise organisational implications of integration have been more problematic, and probation service leaders believe they could and should improve upon what they are currently doing with EM. They have thus looked at how both the quantity and the quality of EM can be improved in relation to the expectations of various stakeholders, particularly the judiciary. The conclusion has been drawn that the technical aspects of EM have been over-emphasised at the expense of the social and behavioural matters with which EM, if used properly, could help. Only if sentencers have a clear sense of what can be done with it - how it helps them as sentencers – they will they turn to it. Clear goals for the use of EM must be set in individual cases. To do that, risk assessments must first be done well, and procedures streamlined at every point in the implementation of the sentence. For every intervention, not just EM, certain qualitative criteria (severity, certainty, celerity (speed), and proportionality) need to be taken into account to make it effective and legitimate - EM has too often been left outside these considerations, because of the pre-occupation with it as a technique. The goal is now to persuade Dutch sentencers to make more and better use of EM. To this end, four areas of improvement have been highlighted to better “professionalise” the use of EM. The first area is the knowledge of EM in the judicial chain. The mind-set of the judiciary should be changed, because too few people know about the use of EM in the Dutch judicial system, beyond that it is a “technology”. To remedy this misunderstanding, an online “web store” is being created for judges, prosecutors and probation officers to give easy access to information about EM and, crucially, to document and exemplify ways that it can be used to achieve the goals of sentencing and supervision. At the moment this web store, modelled on commercial examples of interesting and accessible websites, is a work in progress. The second area of improvement relates to the uniformity of EM practice : too much current practice is idiosyncratic, and more standardisation is needed. Following a number of “expert meetings” in the Netherlands, EM will hitherto be defined in terms of five “products”, based on two “product groups”. The web store will present them in this way. Users of the site will ask questions relating to what they want to achieve with a particular offender and then the site will process the information and draw on the menu of products. The third area of improvement is concerned with the differing approaches that have grown haphazardly among EM specialist officers in the Dutch Probation Service. There are regional variations in EM’s use in the Netherlands, and to an extent this has shaped professional practice: some officers in rural areas do very little of it, and, except among the busier specialists, EM is not seen as core probation business. The intention is to create a smaller number of EM specialists who deliver a specific ‘EM service’ to

other probation officers, and who build up high levels of expertise because of the frequency in which they are involved in EM implementation. Finally, the managing and monitoring of the EM process itself needs to be improved ; currently the lack of consistent thinking about EM purposes and lack of standardisation in practice inhibits this. The new EM specialists need to be managed from a central point in the probation service. This “professionalization” project is still unfolding. The web store and the new ways of working will be tested in two regions first. It is hoped that these new approaches will increase both understanding and use of EM, reduce mistakes and standardise hitherto inconsistent practice.

The Workshops

Compliance with Electronic Monitoring

Professor Anthea Hucklesby of the University of Leeds, and Mr. Keith Phillips of G4S spoke about Ms. Hucklesby’s research on compliance with EM, reminding us that the distinctive hallmark of EM as a penal measure was precisely its ability to detect compliance and non-compliance with scheduled routines and that this was arguably the basis of any deterrent effect it had. In her research in England, the factors associated with compliance for individual offenders on EM community orders were: length of orders and duration of curfew periods ; preparation and readiness for EM ; respectful attitudes by monitoring officer, official reactions to violations (supportive rather than overzealous) ; stability of home address, substance use and a good attitude of and support from family and friends and the offenders own motivation. Ms. Hucklesby mentioned the development of “assisted compliance” in a G4S project in England which entailed texting offenders to remind them to be in when their curfews began, and to keep court appointments if they were appearing for breach, and Keith indicated this had significantly improved offenders’ timekeeping. It raised questions among the participants as to whether the probation service should be giving assistance - the model which already prevails in many European countries. Keith further provided details of a new GPS data-mining project, analysing the aggregated data set of all the offenders they had had on EM in England and Wales to detect overall patterns of compliance and to construct a typology based on this. Questions from the participants drew out why G4S was doing this at this moment in time - primarily to see if they could predict from past experience who would be likely to comply and who not, so that a) appropriate and timely supports could be set in place and b) they would be prepared for a new “payment by results” funding regime that is coming on stream in England, in which it will be important to identify likely successes in advance. It was agreed in the workshop that data mining of this kind produced useful insights into compliance, which complemented individual -level analysis, and that state agencies involved in EM, who had large enough data sets, could themselves do something similar to G4S. A Saudi Arabian delegate reminded us that gaining an offender’s compliance was not just a matter of technical manipulation : human rights came into it too.

GPS Tracking of Persistent and Prolific Offenders

Mr. Phillip Riedlinger, Serco Projects and Business Development Manager and Detective Inspector Mr. Russ Wilkinson of Norfolk Police described the evolving and improving nature of GPS tracking technology - its capacity to “geo-fence” an offenders home (creating an inclusion zone) and thus replicate how Radio Frequency EM was used to enforce curfews, the sophistication and precision with which offender’s routes can now be represented on e-maps - and outlined some recent uses of it in the Norfolk and Suffolk areas of England and Wales. One new use is the application of GPS in the context of Home Detention Curfew - hitherto the preserve of Radio Frequency EM. Offenders apply for HDC - and in that sense they consent to it, so the offenders on GPS are, to a degree, volunteers. The trials are taking place at the following prisons - Norwich, Wayland, Highpoint, Hollesley Bay, Blundeston and Warren Hill - and early results suggest greater compliance rates than with Radio Frequency EM. Offenders seem to value being able to prove that they were not near crime scenes. A second project, with Norfolk police but involving a range of other support agencies, is focussed on prolific offenders (who volunteer for the scheme) and short case studies were provided showing how the technology had indeed exonerated or incriminated various offenders. Questions focussed on the technical limitations of GPS - which are real, but getting less, although problems of reception, drift and frequent false alarms remain. The hypothetical question of tracking an offender who travels by air was raised - the GPS system has to be shut down to avoid interference with aviation technology. GPS systems by their nature generate a lot of data - the art is in the intelligence with which the data is interpreted and used, and the “system protocols” relating to data ownership, for example in which the technology is embedded. One participant contrasted different understandings of data ownership in Germany - where probation, unlike supervisors in England, are not allowed to pass on data between agencies. The advantages of GPS tracking were very evident by the end of the session, but offenders using GPS jammers could be a problem in the future, and it was conceded that GPS was becoming so easy and cheap that there were risks that government might want to subject too many people to surveillance.

EM in Hesse, Germany

Ms Silke Eilzer, a district court judge in Hesse, gave a detailed and legally precise account of the development of EM in Germany. EM was first introduced in the “Land” (region) of Hesse as an educational measure in 2000, targeted on offenders whose unstructured lifestyles would otherwise have made it difficult to supervise them in the community. The intensive programme in which Radio Frequency EM was embedded was intended as an alternative to custody ; the offender’s consent was required. EM was subsequently used to avoid pre-trial detention, as an improvement on an earlier arrangement in which defendants had reported to the police. GPS tracking was introduced, for the first time in Germany, by the Federal Government for serious sexual and violent offenders released from prison in January 2011. Their consent was not required. All movement data collected from GPS is deleted three months after the event, but can be given to the police for use in other investigations. The Federal approach could have presented some difficulties to the sixteen administratively autonomous Länder, but they agreed to work together, creating a joint monitoring centre (based in Hesse), covering the whole country, staffed by civil servants, which operates separately from the local probation service, but complements it.

Electronic Monitoring in Prisons

Ms Tami Mazel, from 3M, and Ms Liesbeth van Gent of the Netherlands Prison Service explored the various ways in which EM could be used in respect of imprisonment - executing prison sentences, early release programmes, monitoring during temporary leave and inmate tracking in prisons themselves. All such measures can be managed from within prisons, (although execution of prison sentences is more usually done by probation services, operating outside prisons). In respect of using EM with released prisoners, some discussion took place about issues concerning technology, compliance and longer term effects on recidivism. It was agreed electronically monitored home detention after prison could be experienced as punitive both for the offender and, perhaps unfairly, to the family, but it is cost effective and easy to implement, and has been known to have unanticipated-but-positive side effects. The use of inmate tracking is relatively rare in Europe, although Sweden has built up experience of doing this in open prisons. The Netherlands have also tried it in a semi-secure prison; the main reason the practice ceased was lack of added value, given the costs. It is important to be clear what is wanted from inmate tracking - clearly specified goals about inmate management rather than surveillance for its own sake, which could turn the prison into a “technological zoo”. Questions of staff-prisoner interaction still need to be addressed: the technology helps with security but - workshop participants were emphatic on this - should never be a substitute for face-to-face interaction with and management of prisoners. Inmate tracking could potentially be used to hold higher risk offenders in a less secure prison than would otherwise have been possible. A general question about the part EM - a form of externally imposed control - plays in fostering internal self-control was aired in one of the two workshops. Does it, as is often claimed, actually do this? Or does the imposition of external control diminish the likelihood of internal self-control being developed, especially with juveniles? The argument was unresolved; the question remains important.

Electronic Monitoring in Sweden

Jan Bungerfeldt, head of EM in Kriminalvården and Erik Sundström, Project Manager at The National Board of Institutional Care, outlined the history of EM in Sweden - the longest running national scheme in Europe, piloted in 1994 and rolled out in 1996 . Its front door scheme was a conditional prison sentence targeted particularly, but not exclusively, on drink drivers, and it has brought about a sustained reduction in the use of short custodial sentence. Sweden subsequently developed a back door, early release scheme, and, though not the first to experiment with inmate tracking in open prisons, has sustained this development since 2005. Recidivism rates for “intensive supervision with electronic monitoring” (ISEM) are lower than prison, and Sweden is convinced that EM provides value for money: possibly uniquely in Europe, it charges offenders a small fee for the daily rental of the equipment, money which is paid into a victim compensation fund. New developments include a project with juvenile offenders (between 15-18 years) using GPS tracking on those in residential care, when they go on temporary leave from the institution. Plans are in hand to use GPS in a police-based project with restraining orders for offenders involved in domestic violence

and stalking. EM may be considered for asylum seekers. Participants raised questions about the use of EM in a probation context - there was a strong commitment to this - and the other support measures with which EM is integrated. Some also asked whether it was really necessary to use GPS tracking - the implication being that it was too draconian, and in the second seminar there was a thoughtful discussion of the ethics of using it with juveniles. Several people questioned the wisdom of this but were won over when it was explained that tracking enabled more juveniles to leave the institution during daytime.

Remote Transdermal Alcohol Monitoring in Scotland

Detective Inspector Ms. Linda Borland and researcher Mr. Will Linden of the Strathclyde Police outlined the potential development of this technology in Glasgow, hitherto untried in Scotland. They provided a detailed account of alcohol-related crime, especially violence (with some striking and sad visual examples), to show why transdermal alcohol monitoring (using American SCRAM technology) is under considerations. “My name is Scotland and I have an alcohol problem” was only half proclaimed in jest, and the Violence Reduction Unit (VRU), for whom the speakers work, is determined to use innovative approaches with offenders, rather than assuming that the problem is intractable. Mention was made of the various policies and strategies being taken by the Scottish government to address alcohol consumption and its anti-social consequences, including minimum pricing for consumers generally. Having been championed by the VRU, remote transdermal alcohol monitoring is not yet in operational use in Scotland (specifically Glasgow), because of the existing EM contracts in Scotland (which did not allow for it), because the potential location of offender data in the USA (in SCRAMS’s database) may violate data protection legislation and because doing it on a large scale, beyond a pilot, may require significant resources. Linda and Will gave a detailed comparison of breathalysers and remote transdermal alcohol monitoring, emphasising the advantages of the latter. They further explained the legislative framework that could potentially be used if the government authorised its use in Scotland, namely, a generalised “conduct requirement” that can currently be included in a community sentence, which could encompass a restriction on alcohol use. Participants raised questions about the legality and legitimacy of telling offenders they cannot drink alcohol, when it is not in itself an illegal substance. The VRU’s aim overarching commitment is to harm reduction, however, and its aim is to promote “sensible drinking levels”, not abstinence, and one potential advantage of remote transdermal alcohol monitoring is the way it helps offenders themselves to monitor their personal alcohol intake. Operational questions were asked about the integration of police and the technology provider, the assessment of offenders’ willingness (and readiness) to change, the kind of support programme that needs to be offered to offenders who are monitored in this way, and the penalties that might be imposed for breach.

GPS Tracking of Sex offenders in France and Domestic Violence Perpetrators in Portugal

Ms. Myriam Chapeaux, a judge in Paris, and Mr. Nuno Matias Ferreira of the Portuguese Probation Service described developments in their respective countries. Myriam described the structure and organisation of GPS tracking in France, which is focussed only on very serious offenders in pre-trial and post-release schemes, together with the numbers of offenders involved, and the incidence and pattern of reoffending. The penitentiary administration is responsible for both monitoring and probation. Its staff had to learn how to operate the system, to understand its strengths and limitations, and in particular to interpret the kinds of alarms it generated, so that the judge can decide on an appropriate response. As yet, there has been no evaluation of this measure. GPS has been used in the context of domestic violence in France, but not for as long. Nuno's contribution focussed specifically on the merits of GPS in this context, in respect of a scheme administered by the Portuguese probation service. He addressed the nature of the exclusion zones that could be put around victims and the level of stress and anxiety that they were still likely to face. There was a clear emphasis on how to achieve good practice, and a definite sense that the technology was useful and could be managed effectively. Participants asked practical questions about the respective merits of GPS and Radio Frequency EM, given that both countries had experience of both, and were specifically interested in the handling of data generated by GPS systems. There was general agreement that, useful as GPS was, it did not obviate the need for behavioural work with the perpetrator, and continuing professional attention to the relationship between the respective parties. At the same time, the technology added a useful level of control over perpetrators that courts and social workers had previously lacked.

Summing Up and Ways Forward

The question that had to be asked at the end was: did the Bålsta conference identify the "gold standard" in EM? Not exactly. **Mr. John Scott, the acting Secretary General of CEP**, who chaired the event, nonetheless identified in his summing up five emerging themes and seven principles which seekers after best practice in EM should bear in mind. The themes - relating to emerging trends in EM use in Europe - were:

- that satellite tracking has finally come into its own in Europe, and will be used more.
- that data handling and data protection issues need more attention than they have been given.
- that there is an emerging police role in EM, whose implications probation services need to appraise.
- that there is renewed interest in remote alcohol monitoring.
- that offender and victim experiences need to be acknowledged if EM is to be used well.

The gold standard of EM's many use(s) will not and cannot be found in technology alone, but in the broader and deeper set of values and practices which inform and express our understanding of why people offend and what it takes to punish, control, reform and reintegrate them in a civilised way. EM will only be used wisely and well in countries which utilise to the full strengths of humanistic measures and use EM to remedy their limitations rather than displacing them. A simple ten-point description about what is absolutely excellent does not exist, and maybe never will - different countries will always bring their own particular values to bear. Every jurisdiction, each with different policy frameworks for working with offenders and victims will deploy differently. We can only map out factors which should be included in the consideration of a gold standard, and some progress was made on this at the Bålsta conference. The principles that ought to matter are :

- that technology should never be used to dominate or displace human intervention with offenders.
- that probation and social work professionals need to become more conversant with the technological capacities of EM, so as to better understand its potential and its dangers.
- that there should be more public education about EM, delineating expectations that it can and cannot meet.
- that more research and hard evidence is needed to underpin and justify the expansion that is taking place.
- that there needs to be a clear and explicit sense of purposes about EM's use within criminal justice strategies.
- that EM initiatives should be respectful of the views of offenders and crime victims as to what is bearable and feasible.
- that in using EM, efforts to reduce the use of imprisonment and to avoid net-widening remain important.

The conference was closed with "thank you's" : to Kriminalvården, (particularly Ulf Jonson, Jan Bungerfeldt and Mimmi Agnevald Haugen) for hosting the event, to the sponsors for their financial contributions and hospitality, to the hotel for its catering and support, to the speakers and participants for their shared contribution - and to Martine and Mirjam for once again holding the administrative aspects of the conference together - and from the floor, to John Scott himself for chairing it so effectively.