GPS Tracking

Fear and loathing in the Sunshine state

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Dangerous Prisoner (Sexual Offenders) Act 2003
Queensland
GPS monitoring of a patient with mental illness

Re CMX [2014] QMHC 4
Dangerous Prisoner (Sexual Offenders) Act 2003 orders

2011 - 20 in custody, continuing detention order
- 77 supervised, GPS monitoring in the community

2015 - 43 in custody, continuing detention order
- 97 supervised, GPS monitoring in the community

2016 (Queensland population 4,883,700)
- 47 in custody, continuing detention order
- 94 supervised, GPS monitoring in the community

2016 (NSW population 7,797,800)
- 21 in custody, continuing detention orders
- 86 supervised in the community
The allure of the technology of GPS tracking

• brief overview of history of GPS tracking in the U.S.

• evidence base for GPS tracking of sex offenders

• problems, controversies around GPS tracking of sex offenders

• Queensland Parole System Review
  • recommendation that GPS monitoring of parolees be widened
The age of mass incarceration

Australia (population 24.6 million in 2017)
2010 - adult prison population: 25,968
2017 - adult prison population: 38,845 (increase of 63% since 2010)
  - adult imprisonment rate: 216 per 100,000 adult population

United States (population 323.4 million in 2016)
2016 - adult prison population: over 1.5 million
  - adult imprisonment rate: 582 per 100,000 adult population
  - 4.5 million under adult community supervision
    - adult community supervision rate: 1 per 55 adult population
Prison over-crowding

Paradigm of imprisonment has shifted
“correction and rehabilitation” -->
“containment and punishment”

Rehabilitation programs have declined

Post-release corrections policy changed
Counselling and support for re-integration -->
“control and punishment”
“push factor” for electronic monitoring post-release
The changing role of EM
deterrence, punishment
  • severity, certainty, celerity

electronic monitoring programmes
“house arrest” or “home detention”
“intermediate sanction”
  • less onerous than imprisonment
  • more restrictive than traditional parole, probation

mitigate adverse effects of imprisonment
  • divert offenders away from criminogenic prison
  • avoid “contamination factor”
Assist probation, parole officers

greater level of supervisory control with EM

enhanced offender accountability

• reduce likelihood of re-offending
• improve accountability to treatment attendance
• improve engagement in rehabilitation
• increase impact of treatment interventions

collect evidence of “slippery slope” - rule violations
prompt removal of offender from the community

improve community safety
Application at diverse stages in criminal justice

- offenders on probation
- paroled (convicted) offenders
- **sex offenders**
- illegal immigrants
- terror suspects
- gang members
- domestic violence offenders
- drink drivers
- juvenile offenders
**Uses of EM**

- surveillants to remain in designated areas
- discourage surveillants from
  - entering “exclusion zones”
  - approaching prohibited individuals

- victim alerted
  when surveillant enters exclusion zone

*tampering with EM --> immediate notification*
Front-end, Back-end uses of EM

“Front-end” uses
during pre-trial phase, as a condition of bail
- in lieu of bail or pre-trial diversion
during probation, other intermediate sanctions
- work release centres, day-reporting programmes
alternative to incarceration or re-incarceration for probationers

“Back-end” uses
“step down” from incarceration
“punish,” promote “tough on crime” agenda
Martha Stewart – celebrity probationer

- guilty of conspiracy, making false statements, obstructing federal investigation into insider trading
- March 2004, sentenced to two years supervised probation
- including five months home confinement with EM
Community protection
during 1930s
  • indefinite civil commitment
  • “sexual psychopath” statutes

protection of society from further sex offences
incapacitation
“treatment” of the sexual offender’s underlying “mental disorder”
Protection from sex offenders
current legislation

previous approaches appeared to be ineffective

current community protection model

- focussed on monitoring, incapacitation of offenders
- more intrusive policies
- community supervision extended beyond traditional parole period
- include restriction on movement, residence
“memorial laws” - named after victims of sex offenders

Jacob Wetterling’s Law
Crimes Against Children and Sexually Violent Offender Registration Act

Megan’s Law

Sexual Predator Punishment and Control Act

Adam Walsh’s Law

Child Protection and Safety Act

Jessica’s Law

California Proposition 83
Jessica’s Law 2005
Sexual Predator Punishment and Control Act
91 high risk sex offender parolees
  • kept on parole longer
  • higher base cost, significantly more than comparison group
difference in cost not offset by significantly lower cost cf. incarceration
  • differences: failure to register as “sex offender”
GPS caseloads approx 20 (comparison group caseloads 40)

no significant difference: sex offences, return to prison
GPS monitoring “not cost effective” for high risk sex offenders
Adam Walsh Child Protection and Safety Act 2006
National Child Offender System (NCOS)
Global Positioning System technology

earliest form of EM - radio frequency monitoring

mid-1990s, satellite-based GPS system developed by U.S. military

triangulates light speed signals from solar-powered satellites orbiting above the earth

displays surveillant’s location to within meters
Global Positioning System - EM

basic components of GPS EM
- receiver, a tamper-resistant bracelet 
  “portable tracking device”
- battery charging unit

surveillant’s movement
  • logged retrospectively
  • tracked continuously in near “real time”
Technical limitations of EM

irregular monitoring coverage
satellite signal loss, “dead spots”
  ▪ thick-walled structures, basements, tunnels
  ▪ heavy vegetation
  ▪ severe weather conditions

“thrown points,” “drift” from large reflective surfaces
  ▪ surveillant static for long periods
  ▪ in fast-moving vehicles, like trains

technical faults, equipment failure, battery life

no EM device is “tamper-proof”
Logistics of GPS EM

set-up and organizational issues
staffing, training and maintenance
generates huge amount of data
long learning curve
time to manage equipment, change batteries

less time dedicated to other areas of community supervision

• responding to alerts, majority “false alarms”
• potential for inertia and systemic complacency to develop
• inured to volume, frequency of minor or false alerts
Staffing, resources implications

no long-term studies have confirmed any reduction in offending behaviour which extends beyond the duration of the EM programme

no sophisticated studies of the financial implications of operating EM

“opportunity cost”

- EM divert resources away from evidence-based programmes
- resources applied in EM programmes could be directed toward law enforcement, treatment, rehabilitation, social problems
False sense of security with EM

What EM can tell

- where the device is
- where the device has been
- whether the device is attached to the surveillant

What EM can never tell

what the surveillant is thinking, planning, doing
Jaycee Lee Dugard – abducted

10 June 1991, 11 year old Jaycee walking from home to a school bus stop
Lake Tahoe, California

Phillip Garrido
1988 paroled
1993 violated parole
served 5 months
-> GPS device
2006 neighbour complained
2006 - deputy sheriff visited

warned of “technical violation”
children living in tents in back yard

August 2009
arrested
charged with kidnapping
EM – of no use once extricated
Sanction stacking

no clear consensus that EM has reduced prison populations

increase in recidivism, parole violation

may actually reflect more controls and “sanction stacking”

new categories of offending
• breaches of parole conditions
• combined with “technical” or “rule” violations
“Technical violations”

80% offenders likely to breach conditions of parole, return to prison
- more than half return to prison within 3 years of release

25 % of offenders returned to prison
“technical violations”
within 3 years of release

531 contraventions of supervision orders
Net widening

EM morphed into another sentencing option - “net widening”

more harshly deal with offenders than would otherwise occur

“Front end net-widening” - EM applied to offenders who would not otherwise have received a prison sentence

“Back-end net-widening” - more intense EM, increased likelihood of further custodial sentence for “technical violation”
Outsourcing, privatising of corrections
America’s Leader in Partnership Corrections
America’s Leader in Partnership Corrections
Arthur Gorrie Correctional Centre
Queensland
Parklea, NSW
Junee, NSW
Ravenhall, Victoria
Acacia Prison and Wandoo Reintegration Facility, Western Australia
Southern Queensland Correctional Centre, Queensland

Port Phillip Prison, Victoria
Mount Gambier Prison, South Australia
“Pull factor” of EM – vertical integration

Private corrections firms entering into EM services

December 2010, GEO Group

acquired controlling interest in BI Incorporated

largest provider of EM services in US

- tracking offenders, 900 correctional agencies
- community-based re-entry services for parolees
- sole provider of monitoring, supervision for U.S. Immigration and Customs
- supervises migrants - deportation, amnesty hearings
“Pull factor” of EM vertical integration in Australia

Pacific Rim Employment subsidiary of GEO Group Australia

contracted to Corrective Services, NSW
provide EM services in the community
Outcome evaluations of EM

controversy about rehabilitative capacity of EM in the absence of programmes addressing offenders’ underlying criminal risk factors
despite high EM program completion rates, evidence in favour of rehabilitative effects tenuous
cost-effectiveness of EM programs relative to incarceration or other community-based programs
empirical evidence, at best, inconclusive
EM - is it efficacious?

EM is promoted as a cost-effective way to achieve justice system outcomes, offender supervision and community safety

- current evidence base of outcome evaluations - limited, equivocal

- positive correlation between the use of EM and outcome measures (eg. reduced re-offending) not been clearly established
Outcome measures

Is there an evidence base for efficacy of GPS monitoring of sex offenders?

• do offenders on GPS remain compliant longer in the community?
  • are they more likely to not violate conditions and not re-offend

• do offenders on GPS have a greater incidence of completing treatment?

• any unanticipated consequences for community corrections, officers?
  • will GPS negatively impact on workload allocations for officers?
EM - Limitations in methodology of research

small sample sizes (fail to achieve statistical significance)
single states, GPS monitoring mandated
different selection criteria
failure to use random assignment
absence of comparison, control groups
differences in outcome measures
relatively short study duration

confounding factors
  wide variability of supervision regimes
  complimentary community treatment and support programmes
2000 meta-analysis

EM “minimal impact” on re-offending (Gendreau et al 2000)

Canadian study

no significantly lower recidivism rates, EM added little value to more traditional community control, “net-widening” (Bonta et al 2000)

Georgia Board of Pardons and Paroles

128 high-risk violent parolees

no significant independent effect on likelihood of parolee re-incarcerated, length of time to re-incarceration (Finn & Muirhead-Steves 2002)

systematic review of 154 outcome evaluations

only 3 studies met inclusion criteria of proper comparison groups and analysis of multiple outcome indicators, all 3 produced inconclusive results on the value of EM (Renzema & Mayo-Wilson 2005)
Systematic review of 154 outcome evaluations

after 20 years, EM has been “almost desperately” applied without adequate vision, planning, programme integration, staff training, concurrent research

“EM is not a treatment that changes values or teaches skills”

“... it is hardly surprising that recidivism has not been reliably reduced by an intervention which is typically quite short, applied in a standard fashion and applied to a diverse group of offenders for whom it may or may not have any relevance to their motives for offending.”

(Renzema & Mayo-Wilson 2005)
two experimental studies in 2006
no significant difference in recidivism

2015 California study
compared high risk sex offenders with GPS to high risk offenders on specialized caseloads
follow-up only 12 months, GPS monitored offenders marginally less likely to abscond, less likely to be convicted of new criminal violation
no significant difference in type of new crime violation
study only compared “value add” of GPS supervision to small specialized caseloads of high risk offenders
not a comparison to routine supervision parole for sex offenders

(Turner et al 2015)
EM - publication bias

many reports only evaluations of process
for example, the efficacy of EM as a form of “intense monitoring”

no prospective study with a research hypothesis, or well defined outcome measures

positive findings from the use of EM more likely to be published
large institutions, well-resourced government agencies more likely to be able to publish laudatory findings
Child sex offenders usually not lone, opportunistic predators

most sexual assaults committed against family member or acquaintance of the offender

more than 95% of all sex crimes targeting children committed by someone known to the victim (US Bureau of Justice Statistics)
Re-offending by sex offenders

official recidivism statistics
sex offenders have low rate of re-offending following release

5 % of sex offenders committed a new sexual crime over three years
cf. 68% of non-sex offenders re-arrested for any type of offending

2003 study
over 5 years, 6% recidivism
Sex offenders - heterogenous group

wide diversity of motivations, behaviours
antisocial proclivities, personality disorder or psychopathy
• stronger predictors of sex offending and offending generally

psychopathic or non-psychopathic
opportunistic, pervasively angry, vindictive
sadistic or non-sadistic
**meta-analysis** (Hanson and Morton-Bourgon 2005)

82 sex offender recidivism studies

- do not typically address criminogenic needs of sex offenders
- lifestyle instability, deviant sexual interests, sexual pre-occupation

Treatment programmes tended to concentrate resources toward

- offence responsibility, victim awareness, empathy
- shown to have little relationship with recidivism

"one-size-fits-all" generic EM

Can’t meaningfully address primary causes, social conditions of different sexual offenders
False sense of security

“GPS policies are based on the presumption that sexual offending is caused by opportunity and location (by controlling where offenders go and knowing their location, the likelihood of sexual abuse is reduced).

Implicitly, then, sex offending is caused by impulsivity as the offender happens to come across the opportunity for offending, he or she does so.

Most research, however, shows that sexual assaults of all types are rarely impulsive events; rather, offenders plan their assaults and use strategies to gain access to victims, acquire their trust, and commit the assault — referred to as grooming.” (Payne, De Michele 2010)
Cost of GPS devices

GPS monitoring devices are expensive
$15,000 – $20,000 each

GPS-EM technology has no intrinsic supervisory powers
provides an indication of the surveillant’s location
• reveals nothing about what they are thinking, doing

operational costs – underestimated, overlooked, ignored

“Electronic monitoring – It is a tool, not a silver bullet”

(DeMichele 2014)
(para 504) “Proper supervision of sex offenders after release from prison has been found to decrease their risk of reoffending.

An evaluation of QCS sexual offender treatment programs found that if sex offenders were subject to supervision after release from prison, on parole or under the Dangerous Offenders (Sexual Offenders) Act 2003, they were less likely to reoffend.

“Improving and monitoring re-integration, the role of the Parole Board”

(para 922) “... one of those options was to increase the electronic monitoring capabilities of Corrective Services so that the new Parole Board could require electronic monitoring of more parolees.”

(para 923) “To date, Queensland has made only very limited use of electronic monitoring but it has been very successful. “

(para 932) “The use of GPS has been effective in reducing reoffending by these offenders.”
Recommendation No. 60

“Queensland Corrective Services’ GPS tracking capabilities should be developed so that it is possible for the Parole Board to require GPS tracking and monitoring in appropriate circumstances based on the assessed risk of each parolee.”

increase workload of correctional centre staff
additional resources: staffing, hardware, information technology
Premier Palaszczuk

February, 2017
Queensland government announced
GPS expanded to monitor parolees

$35.15 million over six years
up to 500 parolees across Queensland
The false allure of security technologies

“... the EM industry acts as a mode of industrial net widening – both within criminal justice and across other sectors. EM is initially introduced as an alternative to imprisonment but ends up acting as an intermittent release valve for over crowding. EM is subsequently introduced as an alternative to existing community sanctions but functions as an increasingly intensive and intrusive supplement...

While the evolution of EM can be linked to broader contours of change in the penal system, the spread of EM technologies is best understood as both a product and facilitator of the global trade in surveillance-based population governance.” (Paterson 2007)
Questions


Durose, Matthew, Cooper & Snyder, Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010, Bureau of Justice Statistics Special Report, April 2014, NCJ 244205.


Bersot & Arrigo, ‘Responding to sex offenders - Empirical findings, judicial decision making, and legal moralism’ (2015) 42 (1) Criminal Justice and Behavior 32-44


DeMichele, ‘Electronic monitoring–It is a tool, not a silver bullet’ (2014) 13 (3) Criminology and Public Policy 393–400.