

Expert working group report on electronic monitoring in Scotland

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Since its inception in Scotland in 2002, the uses of electronic monitoring (EM) have been relatively simple, standardised and stable, with only one type of technology – radio frequency tagging – used in combination with curfews. Importantly, nearly all uses of EM in Scotland have been stand-alone, meaning no offender supervision requirements for those on EM court orders or on early release from prison with a Home Detention Curfew. Criminal justice social workers (the Scottish equivalent of probation officers) and third sector services have had little involvement with supporting monitored people to date. This is set to change.

On the 4th of October 2016, a new 65-page report, *Electronic Monitoring in Scotland Working Group Final Report*, was publicly released by the Scottish Government (2016a, 2016b) and widely reported in the media. It sets out a series of recommendations to Scottish Ministers about improving and expanding the uses of electronic monitoring, the most significant of which are summarised below (to read in full, see Scottish Government, 2016a: pp. 7-10).

Summary of key recommendations in the report:

- *Make EM more integrated:* introduce supervision and support options within electronically monitored orders, as well introducing the option of EM as a condition within other community-based orders (e.g., Community Payback Orders, which are used more frequently);
- *Introduce new EM technologies:* introduce GPS tags and transdermal alcohol monitoring tags, alongside existing radio frequency tags;
- *Explore and expand more modalities and uses for different purposes:* explore more uses of EM, from pre-trial use, to use as an alternative to a fine or as a condition of another order, through to use within the custodial estate with prisoner work placements, home leave and other reintegration-focused activities;
- Streamline the thresholds and reporting of non-compliance to make responses to non-compliance and breach more consistent across Scotland;
- Encourage ownership of electronic monitoring among statutory and non-statutory organisations.

The report and recommendations have been unequivocally influenced by three years (2013-2016) of public and practitioner consultation activities about electronic monitoring across Scotland, two years

(2014-2016) of EM expert working group meetings and, over the same period, two separate research projects and associated large empirical reports on electronic monitoring in Scotland co-led and co-authored by myself and Gill McIvor (see Graham and McIvor, 2015¹; McIvor and Graham, 2016). Some aspects of this consultative and deliberative approach to EM policy development can be characterised as relatively routinised and normal in Scotland. Yet, other features of this process are remarkable for the extent of their participatory nature, and for the broader shifts they symbolise, in the midst of a season of considerable changes to Community Justice in Scotland.

One component of the deliberations of the EM expert working group and policymakers stands out as refreshingly unorthodox. In early 2016, nearly 50 practitioners working in diverse roles across the criminal justice system, as well as some Justice policymakers, working group members and myself as a criminologist, took part in a unique Scottish Government-initiated trial of GPS tagging technology (for details, see Matheson, 2016). We were each voluntarily GPS tagged and tracked for a week by G4S (current national EM service provider), and subsequently shown maps of our 'tracks' and exclusion zones. This visceral experience provoked more nuanced insights in practitioner and expert working group discussions about the need for better responses to non-compliance and breach, and the importance of data protection.

This participatory example in particular and the thrust of the report and recommendations in general signal a departure from a historical tendency for Scotland to emulate Anglo-Welsh approaches to EM. Instead, the Scottish expert working group report comprises an entreaty to the Scottish Government to pursue changes informed by leading approaches in continental Europe, namely Dutch and Scandinavian approaches which are person-centred, goal-oriented and Probation Service-led.

The discourses emerging from this working group report, as well as within the research report released earlier the same year (McIvor and Graham, 2016), show that Scottish criminal justice actors consistently link EM with the penological purposes of diversion and decarceration, juxtaposing its 'alternative' status against the problems and costs of Scotland's high prison population rate. In launching the working group report and endorsing *all* of its recommendations in October 2016, the Cabinet Secretary for Justice Michael Matheson extolled the effectiveness of electronic monitoring compared to the ineffectiveness of short-term prison sentences (Scottish Government, 2016b).

However, a pivotal line of argument in the report is worth highlighting here. The working group recommend against binding the uses of electronic monitoring with certain offence types, offender types or risk levels, stating that the 'group strongly endorses an individualised rather than a categorical approach to the use of EM' (Scottish Government, 2016a: pg. 4). They implicitly destabilise the hegemonic perception of EM *as an alternative to custody* by championing 'a variety of community uses' as 'a versatile tool' (pg. 4) across criminal justice modalities, extending beyond redressing Scotland's longstanding problem with sending too many people to prison – as critical and consequential as that is.

In response to this report, the expected course of action by the Scottish Government is to embark on the recommended demonstration projects, to propose a new Bill to the Scottish Parliament, as well as make amendments to existing legislation, to enable the key recommended changes to proceed. Overall, there is moderate inter-agency and inter-professional consensus about the recommended

ways of trying to make EM more fit-for-purpose and better integrated within community-based offender supervision, but still proportionate. At the time of writing it remains to be seen whether this will be met by erudite policymaking and Parliamentary endorsement, or by public support.

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