

THE THEORY, DEVELOPMENT AND APPLICATION OF ELECTRONIC MONITORING IN BRITAIN

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Synopsis

The aim of this dissertation is to provide a critical analysis of the issues surrounding the implementation of Electronic monitoring (EM). Curfew orders (CO) with EM have been available in Britain since July 1995, the Home Detention Curfew (HDC) since January 1999. It is vitally important that society does not accept without question new methods of punishment implemented by the government, especially when the use of sophisticated and modern technology is the main component.

This dissertation will examine the theoretical implications of the development and introduction of orders involving EM. The financial, practical and political consequences of expanding the sentencing menu and theories of rehabilitation and retribution will also be discussed.

The potential dichotomy between public protection from criminals and the need for rehabilitative and humane punishments will be under constant analysis. This will form part of the wider debate of the political and theoretical influences on sentencing philosophy.

This dissertation aims not only to examine critically the development and current use of EM, but also to engage in a wider debate surrounding sentencing ideology and EM, and its implications for the wider arena of the criminal justice system.

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Introduction

I first heard about Electronic Monitoring (EM) during a lecture on the criminal justice system of England and Wales. The idea of using such technology as an instrument of the criminal justice system fascinated me immediately. EM in this country is a very new phenomenon, and I felt it would make an original, interesting and challenging study. Far-reaching issues are encompassed, from historical development to the ethical dilemmas of introducing technologically enforced house arrest and its possible implications for the families of offenders. It is also politically interesting, as there have been numerous and severe shifts in ideology in the past decade, whilst rates of violent crime have risen, and public fear of crime is at an all time high. High profile cases such as the Bulger and Dando murders have created intense media scrutiny of the government's crime policies and frequently demand highly punitive, lengthy sentences for criminals.

It seems that Britain, like America has an overcrowded prison system. I feel extreme unease that in a civilised nation at the dawn of a new millennium, thousands of people are locked up, sometimes for 23 hours a day, in antiquated prisons. This is done in the name of punishment and protecting the public, with rehabilitation coming a poor second.

As illustrated in the methodology in Appendix 1, it has been very challenging to find data and academic sources on EM. Most of the sources available are American, and therefore do not fully apply to British sentencing theories and practises. These had to be carefully read, adapted and placed within a theoretical context that applied to the British perspective.

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Glossary of Abbreviations

ACOP	Association of Chief Officers of Probation
CO	Curfew Order with electronic monitoring
EM	Electronic monitoring
HDC	Home Detention Curfew
NACRO	National Association for the Care and Resettlement of Offenders
NAPO	National Association of Probation Officers
OTA	Offender Tag Association
POA	Prison Officers Association
PRT	Prison Reform Trust

The terms 'tagging' and 'monitoring' are synonymous

Chapter One

The development of electronic monitoring

Introduction

Britain currently uses EM in two ways; the Curfew Order (CO), which is a sentence to be used on its own or in conjunction with other community penalties, and the Home Detention Curfew (HDC), which enables eligible prisoners to be released early under licence. This chapter will examine the historical origins of EM from the USA and how these were adapted and implemented in Britain. Technological capabilities and the current position of the penalties using EM will be described.

EM, as defined by the Prison Reform Trust, is ‘a system of home confinement aimed at monitoring and controlling and modifying the behaviour of defendants or offenders’ (Prison Reform Trust 1997: unnumbered). Sentences involving EM originated from the USA but programmes for offenders now operates in several countries around the world.

EM comprises of a radio transmitter worn by the prisoner, which transmits a signal to a base unit within the home. If the signal is broken a central computer is alerted and relevant authorities are informed. A more detailed description of the technology will be discussed later on.



**Figure: 1 A wrist tag
(Whitfield 1997:front cover)**

Historical Origins of electronic monitoring in the USA

Wade (1988:3) suggested that the first actual use of EM was to track the location of parolees, mental patients and research volunteers in Massachusetts between 1964 and 1970. Swchwitzgebel saw the potential for 'behaviour modification, an important therapeutic tool and he eschewed its use as a system of simple surveillance' (Swchwitzgebel 1969 cited in Wade 1988:3). EM does raise some humanitarian and privacy issues, which will be discussed in subsequent chapters. EM in its current recognisable form was designed by Judge Jack Love in New Mexico, inspired by a Spiderman comic strip (Mair & Nee 1990:4).

Meyer in 1971 saw the benefits of this system for helping to reduce the prison population. (Meyer cited in Wade 1988:3). He did not share Swchwitzgebel's desire to use monitoring as a method of controlling behaviour. After the 1970s monitoring was fully recognised in the USA as a tool to reduce prison populations. Both Judge Jack Love's and Swchwitzgebel's ideas centred on the same technology. Individuals would wear an anklet or bracelet that would be monitored by equipment in their own home.

The first person recorded as being tagged was in the USA in April 1983. The National Institute of Justice was satisfied with the equipment and reported that home confinement was an acceptable proposition. It stated that 'compared to detention, monitoring resulted in substantial savings to the criminal justice system' (Grabowski: 1996:2). Potential savings that EM could make in Britain will be discussed in Chapter 3.

From the early 1980s there was a rapid growth in the use of EM. According to Mair & Nee it was seen as a useful tool to alleviate problems in criminal justice: the level of prison

overcrowding, the loss of faith in the efficacy of probation and a fiscal crisis, which has made it very difficult to justify further expenditure (Mair & Nee 1990:7).

Prison is a very expensive form of punishment with high staff and running costs and forms a big part of any country's criminal system budget. Macdonald (cited in Wade 1988:4) acknowledged monitoring as very cost effective. He also thought that monitoring was acceptably punitive as liberty is still restricted and curfew conditions are imposed. And finally the offender is kept in a controlled environment.

Thus Houk raised issues surrounding the privacy of individuals within their own homes (Cited in Mair & Nee 1990:4). He suggested that it should be related to specific aims of a probation order. Berry considered monitoring to be constitutionally and legally suspect. She saw its potential use for certain types of population, for example to give a prisoner an early release, but expressed caution about the idea of another kind of criminal sentence. 'Above all, the danger of widening the correctional net should be considered. Specifically, we must be cautious about using this correctional strategy on a person who would not normally be included' (Berry 1985:42).

Electronic monitoring was used in three different ways: on individuals who had not yet been convicted as a condition of their parole, as a sentence in its own right, and as a condition of early release from prison.

Electronic monitoring in Britain

According to Russell & Lilley (1989), the first discussion of EM in the U.K originated from Tom Stacey in 1981. Ideologically he wanted monitoring to be used to reduce prison

populations. He reasoned that a monitored electronic device fixed to the person would ‘Deter the offender, save the contamination and destructiveness of prison, and satisfy the requirement for protection of the public and for punishment’ (Russell and Lilley 1989:1). The Home Office rejected his ideas and denied him funding to investigate his ideas further.

During the 1980s the prison population was increasing rapidly in the U.K. The House of Commons Home Affairs Committee report on ‘The State of Prison’ in April 1987 recommended that the Secretary for State for Home Affairs, Lord Caithness, visited the United States to investigate their use of EM.

Prison overcrowding was seen as a problem that could be tackled by EM. The average custodial population in 1987 was 49,000 – an excess of 7,000 over the certified normal accommodation and an increase of 2,000 over the previous year. More than 20% of that

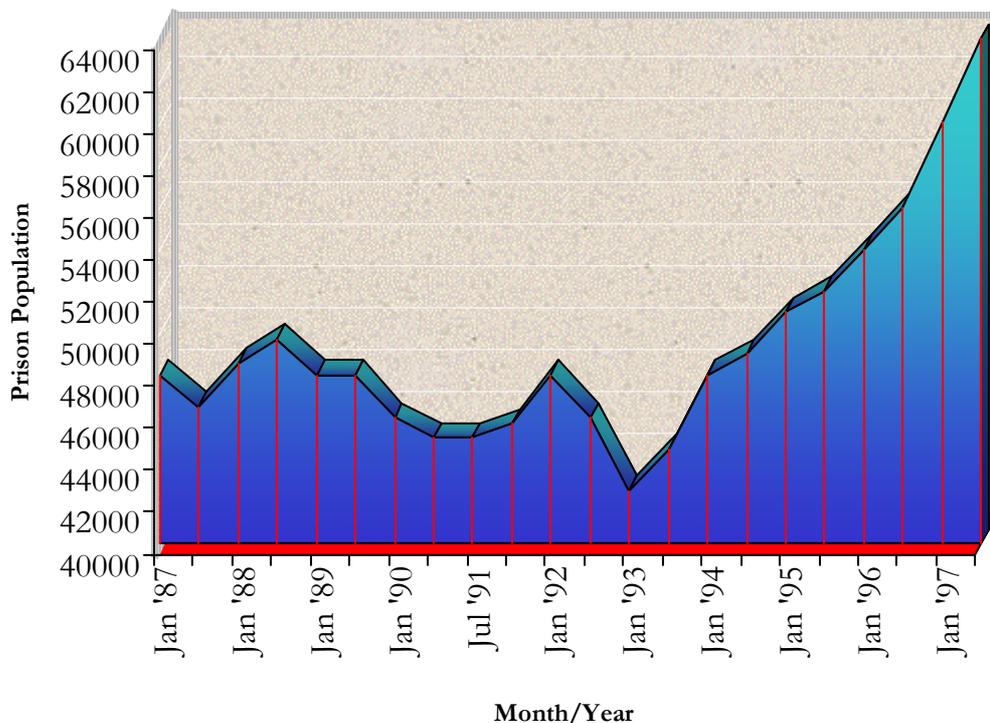


Figure 2: Increases in Prison population between January 1987 and July 1997 (Wright: 1987)

population comprised of prisoners on remand who had not been tried or sentenced (Home Office 1988:unnumbered).

Mair and Nee concluded, 'As was very much the case in the USA, EM was seen as a means of tackling prison overcrowding' (Mair and Nee 1990:3). Figure 2 illustrates the rapid growth in the prison population as EM was considered.

In 1988 the UK government recognised EM as a possibility. In July 1988 the Government Green Paper 'Punishment, custody and Community' raised questions 'on the usefulness of EM in keeping more offenders out of custody' (Hansard 1988:un-numbered).

In the late eighties it was finally decided that Britain would carry out its own trials to discover the potential problems and advantages of using the EM system.

Aims for monitoring trials

As discussed earlier, the USA use EM for a variety of offenders, prisoners and those on parole. Before the British experiment began in the late 1980s, it had to be decided who would be eligible for monitoring in the UK. Reducing the prison population was considered to be the main benefit; therefore it would be used as an alternative to custody (Mair & Nee 1990:8).

There was still opposition to the idea from Chief Officers of Probation, the Police Federation, NAPO, POA, NACRO and the Howard League. A possible reason for this opposition is the need for cross agency co-operation to make monitoring effective and the extra workload and need for resources that this would entail. After much deliberation about the populations that

could be considered for monitoring it was decided that it could be applied to bail/remand defendants who would otherwise have been put on remand.

Fear has been expressed in the USA about using EM as an extra punishment rather than an alternative to custody (Berry 1985:42). It was made clear for the first British experiment that EM should be used to reduce the prison population. The scheme also had to be cost effective.

Aims were set out clearly:

- Reduce the use of custody without increasing the risk to the public
- Avoid the ‘contamination factor’ in imprisonment, when first offenders mix with more experienced offenders and learn the ‘tricks of the trade’
- Avoid the stigma of prison and the dislocation of family ties (Whitfield 1997:18)

The first trials began in August 1989 but were not very successful. A low number of people were monitored. The area of the scheme had to be continuously expanded, as magistrates seemed unwilling to use the new option. It was concluded however that EM was used as an alternative to custody (Mair & Nee 1990:51).

The Criminal Justice Act 1991 paved the way for a second trial. It introduced the curfew order with EM as a community sentence. However it was not until legislation within the Criminal Justice Act and Public Order Act of 1994 that the curfew with EM properly came into existence. The second trials began in July 1995. During the first year the Home Office Research Study criticised agencies ‘for lack of consultation, both with sentencers and with local probation services and a complete lack of guidance as to what the new sentence was designed to achieve and for whom (Mair and Mortimer 1996:15).

The second trial was more successful than the first. Evidence suggested that EM was being used as an additional sentence rather than merely as an alternative to custody. Berg stated that monitoring should be combined with other sentences and that the punishment aspect of monitoring should not be overlooked. He concluded 'It can and should, in my view, become an integral part of the sentencing menu' (Berg cited in Whitfield 1997:25).

The Technology

- The electronic tag that is attached to the prisoners is a low powered radio transmitter. The receiver, or Home Unit, is connected between the telephone and wall socket.
- The Prisoner must have a residence that can house the equipment and be a base for the curfew. This can be a residential house or a hostel.
- They must sign an EM agreement. (See Appendix 2)
- There are three companies in Britain who are contracted to supply tags. They will fit an electronic tag either to the wrist or ankle of the prisoner.
- A monitoring service is plugged into a phone line.
- Curfew hours are set.
- The tag sends out a constant signal to the box. If no signal is received during the curfew, the control centre is alerted and the police are informed that the conditions have been broken (BBC News website 1999).
- The police are also informed if the tag is tampered with.

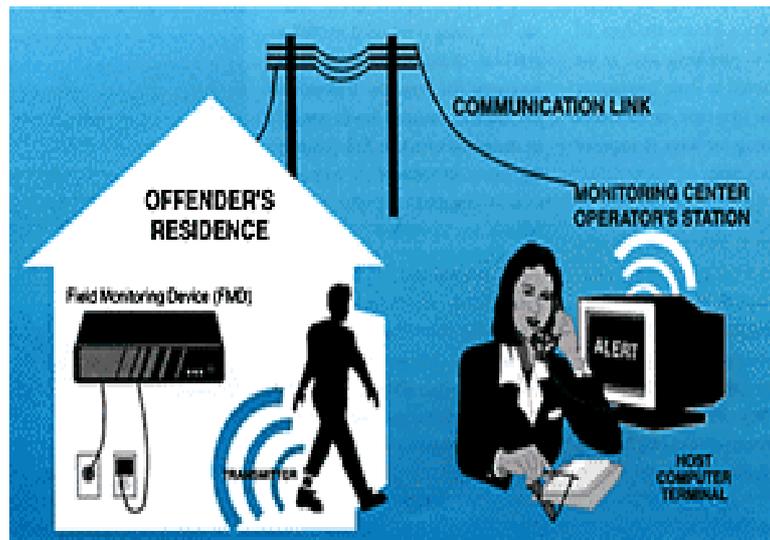


Figure 3: EM technology systems
B.I Monitoring Services (1999)

‘Since the original pilot in 1989, advances in technology have reduced concerns over reliability’ (Prison Reform Trust: 1997). Technology is rapidly changing and developing. Certainly within ten years technological advances will affect the practicalities of EM.

A Home Office spokesperson said, ‘Overall we are extremely happy with the system. Things never run perfectly all the time’ (BBC News August 30th 1999). These technological problems are not of a sufficiency to undermine the use of EM. Indeed problems with technology can be compared to the possible escapes of offenders within prison. Rare problems will occur with any system, but they have to reach a significant level to render that system inoperable.

Position today

Whitfield seems to suggest that politicians have used EM in this country as an electioneering tool to impress a public that has an increasing fear of crime (Whitfield 1997:10). The increases in the prison population and higher levels of publicity over crime rates have

heightened the public's awareness of the faults within our criminal justice system. Violent crime is on the increase and the Labour Party used the public perception of crime heavily in its election campaign. 'Tough on crime, tough on the causes of crime' (Labour Manifesto 1997) became one of the Labour Party's most famous sound bites. As far as policies on crime reduction went, it seems that in this case words have been stronger than actions. However EM has been implemented within our society despite objections from some agencies within the criminal justice system. 'In Britain, monitoring still seems to be a technology in search of a rationale. As the association of Chief Officers of Probation has said 'a clearly understood purpose for EM is currently lacking' (Prison Reform Trust 1997:unnumbered).

Scottish Home Affairs Minister Henry McLeish saw EM as a way of reducing the prison population. He views monitoring as a 'useful weapon in the courts' sentencing armoury.' However when the trials of monitoring were announced in Scotland, one of the companies, which was bidding for the contracts, Geographix, warned that monitoring would not be successful unless the prisoners were supported by friends, family and criminal justice professionals (The Scotsman online edition January 26th 1998).

The HDC, which was provided for under the Crime and Disorder Act 1998, was introduced across England and Wales on 28th January 1999. These were for short-term prisoners who had received sentences of between three months and four years. They would be monitored for between two weeks and two months,



Figure 4: Ankle Tag (BBC News 1988)

according to the length of their original sentence (Hansard 10.11.97: unnumbered).

It was admitted that the main reason for implementing EM was to reduce the ever-spiralling prison population. It is also stressed by the government that monitoring is a way of rehabilitating prisoners: Figures in July 1999 stated that more than 6,000 prisoners had been released since the start of HDC. Predictions suggest 30,000 prisoners per annum would be taking part (BBC News July 16th 1999).

EM is an expanding tool in the criminal justice system. There is no doubt that for it to be effective it requires multi criminal justice agency co-operation is essential. In subsequent chapters this co-operation will be analysed further, as it has been the source of considerable debate within the criminal justice system.

EM today is used in two different ways; the HDC as described earlier is used on prisoners to enable early released, and the CO enforced with EM is a community sentence in its own right; it can be used in conjunction with other community or financial penalties. The implications and benefits of these two applications will be discussed throughout the dissertation, depending upon circumstances they may either be analysed jointly or individually. From the tenor of the White Paper that preceded the 1991 Criminal Justice Act, the theory of the sentencing aims can be summarised.

Although the curfew order was a sentence in its own right, the then government saw its most likely use as being in combination with other community or financial penalties, adding the punitive 'bite' of an element of incapacitation to other less restrictive proposals (Brownlee 1998: 189).

The aims of orders involving EM can be discussed and debated at length. As witnessed in the USA and in experiments in the UK and Europe, it can be an effective tool to reduce the prison population.

It is important that the position of the CO and the HDC are analysed within the context of sentencing philosophy. A fear has been expressed which will be discussed in subsequent chapters, that unless specifically targeted at individuals who need to be under curfew, EM will be merely a case of net-widening of the criminal justice system. It must be considered if using these measures fits into the existing theoretical framework that influences sentencing theory.

Chapter Two

Sentencing Philosophy and Practice

Introduction

The history and development of EM have been discussed in practical terms. It is important to analyse the position of orders enforced with EM in the context of sentencing philosophy. Practical sentences have to be placed within a theoretical framework to ensure that new measures are not implemented without critical analysis. From this it may be concluded how the government's aims in criminal justice sanctions can be realised through EM.

Ideological shifts in philosophy

Sentences during the 1800s were heavily influenced by punishment, retribution and deterrence. From the early 1900s the use of probation increased and sentencing aims moved towards rehabilitation. Today more welfare-based approaches are used in sentencing. In an address to the John Howard Society of Alberta, Ernest A.Cote Q.C stated that

Perhaps the principal difference between criminal justice in the past and today is that the concepts of retribution, deterrence, and denunciation of evil are slowly being abandoned and gradually being replaced by what are considered to be realistic, social science concepts (Schulz 1995:34).

In implementing measures using EM, the Labour Government were aiming to reduce the prison population, as discussed in Chapter 1 (and will be analysed further in subsequent

chapters). However they were keen to impress upon the public that monitoring was not a 'soft option'.

Politicians of left and right in Britain...have recently been scrambling to outdo each other in emphasising the need for tougher rather than more humane pattern of sentencing... the language used in the official discourse around community-based punishments has tended to supplant the more familiar reformatory or rehabilitative purposes of, say, a probation or a community service order, with a direct appeal to, and endorsement of, the punitive potentialities of those sentences (Brownlee 1998:189).

The government therefore have a fine line to tread between reducing the prison population, punishing criminals and protecting the public. It can also be argued that the government are keen to increase the use of community penalties, as they are significantly cheaper than institutionalised punishments. This can add to the dichotomy of reducing public spending whilst maintaining the principle of being tough on crime and protecting the public.

Retribution/Punishment

Punishment as defined by Davies et al is 'a just and condign reward for morally wrong behaviour...based simply on the notion of just desserts' (Davies et al 1995:292). Retribution could include elements of revenge and denunciation. In passing harsh sentences magistrates and judges could show their distaste for criminals. Retribution has to be balanced with the degree of culpability. Fears have been expressed that, although the aim of the CO as a community sentence is to reduce prison populations, it could be used as a punishment in its own right and not as an alternative to prison. 'Instead of being a liberalising measure, it

actually makes it more acceptable for people to be punished...There is a danger that monitoring could set a precedent for other technologies to be used in punishment' (Howard League for Penal Reform 1999).

With long curfew hours the CO severely restricts liberty and therefore must be considered fairly punitive, 'Using the tag solely as a method of punishment...it has both control and punishment features and indeed the two can never be completely separated' (Whitfield 1997:123).

Individual and General Deterrence

'Deterrence, as a general objective...is to justify punishment. Imprisonment is assumed to be a powerful deterrent but its effectiveness in persuading potential offenders to avoid crime is disputed' (Marshall 1994:119). Sanctions to deter people from committing crime are difficult to evaluate. One can only speculate whether an individual resists criminal behaviour due to a fear of punishment. If EM is seen as an alternative to custody, as Mair and Nee (1990) suggested, it could be seen as a softer option than imprisonment. However those monitored are still subject to a fair amount of control.

Until the development of technology to electronically monitor an offender...there had not been effective alternative sanctions to imprisonment in the array of sentencing options acceptable to the public...'effective' means sufficiently intrusive, demeaning and punitive in the public perception (Schulz 1995:27).

Prisoners released early as part of the HDC would surely see EM as less demeaning and punitive than the prison regime they have just left.

Rehabilitation

'Rehabilitation is defined as to restore to normal life by training' (Oxford English dictionary 1998:543). Given the current rate of overcrowding, rehabilitation possibilities are limited within the prison environment. To encourage an offender to revert to a 'normal life' involves a great deal of social support. Individuals undergoing rehabilitation will be trying to change their lifestyles in order to stop committing crime. They will need multi-agency assistance to achieve those changes, e.g. giving up drugs, controlling violent tendencies, etc.

Unless EM is combined with some sort of probation or supervision order, its rehabilitative qualities are questionable. A spokesman from Geographix, a monitoring company, stated that 'EM is only a piece of technology which monitors the offender, it has to be supplemented by an effective service' (The Scotsman online edition January 26th 1998).

During the 1989 Home Office trial of electronically monitoring bail defendants, the Home Office evaluation reported that monitoring staff had been surprised about the amount of informal counselling they had to give the offender (Prison Reform Trust 1997).

Protection of the Public

It is imperative that communities are protected from individuals who are likely to harm them. This implies removing serious criminals from society and imprisoning them.

The incapacitative approach has no behavioural premise...it looks chiefly to the protection of potential victims. The political premise is often presented as

utilitarian, justifying incapacitation by reference to the greater aggregate social benefit (Maguire 1997:1099).

Only prisoners who are considered by the prison service to be of no risk to the public will be eligible for the HDC. The CO is able to protect the public, as although the individual is within the community, the authorities know their location during curfew hours. If the curfew is broken the police are instantly informed. Protection of the public has to be paramount in sentencing philosophy.

In the Select Committee on Home Affairs Third Report on alternatives to prisons the government was quite clear about its aims, It will provide adequate protection to the public because of the monitoring element, and will give prisoners an opportunity to readjust to life outside prison' (Hansard 29th May 1999).

Evaluating the American experience of EM, the safety of the public seems to have been maintained. 'EM is the sanction providing the greatest restriction of liberty and autonomy and the highest level of supervision for offenders who are not imprisoned and hence the greatest degree of protection for the public' (Schulz 1995:28).

Sentencers' views

For sentencing ideology to be put into practice, sentencers must be very clear about the aims and uses of EM. During the evaluation of the first trials it was reported that magistrates had differing views over its uses.

A minority (of magistrates) were opposed to the sentence in principle...only if it was to be made in conjunction with a probation order or the like might it be of use... was an extreme sentence which deprived people of their liberty without addressing their needs (Mair and Mortimer 1996:25).

From this it could be assumed that some magistrates felt that monitoring was being used as a punitive measure that did not encompass necessary rehabilitative qualities. However some magistrates felt the opposite and saw EM as a useful alternative to custody.

In the first trials sentencing ideology was a point of confusion for sentencers in relation to monitoring:

Lack of guidance has proved problematic for many sentencers. It was clear from interviews with sentencers that many were uncertain about the sorts of cases in which the order would be appropriate, whether alone or in combination with another community sentence (Mortimer and May 1996:2).

This would also question Mair and Nee's (1990) suggestion that the CO should only be used as an alternative to custody. If magistrates only thought of it in this way, it could be presumed that the question of eligibility would be easier to address. This lack of clarity for sentencers could weaken the practical applications of the CO as a community sentence. This will be examined further in subsequent chapters as it has implications not only for sentencers and offenders, but how the public perceive the usefulness of the sentence.

Party policy on sentencing philosophy

During the last twenty years, crime and crime prevention have become highly politicised issues.

The main political parties have always had quite contrasting views on law and order, which reflect their wider ideological differences. The parties of the left and centre...believe that individual actions are shaped not only by individual will, but also by the broader social and economic context, which they occur (Wilson and Ashton 1998:11).

Prison populations increased dramatically during the 1980s. In the last general election Labour played heavily on people's fear of crime and promised to be 'Tough on crime, tough on the causes of crime' (Labour Manifesto 1997).

Labour has backed EM as a way of reducing prison populations. However at the same time it is using harsher sentences for repeat offenders. When considering sentencing philosophy, political developments have to be analysed.

The case for 'decarceration' changed little between its first exposition in the mid-nineteenth and its redeployment in the mid 20th centuries...Economies undergoing a 'fiscal crisis' could no longer afford an ever-growing control apparatus: there had to be retrenchment...(this) does point to the importance of the political and economic frameworks of penological debate (Scull cited in Downes and Rock 1998:330).

It could be argued that EM has been advocated by the Labour Government, not because of a desire to punish and rehabilitate offenders within the community, but because prisons are financially draining on the national budget. However Michael Howard's 'Prison Works' philosophies implemented by the previous Conservative government resulted in more criminals than ever before being incarcerated; this arguably demonstrated a dichotomy between punitive criminal justice theories and the Tories' desire substantially to reduce public spending.

During the debate on the Crime and Disorder Bill conducted in the House of Lords, Edward Leigh criticised the Government for its changing opinion on the use of EM.

The Labour Party was strongly and ideologically opposed to the principle of criminals having bits of electronic gear attached to them...However the Labour Government policy on prisons is now in deep trouble...Labour members of the Committee remain supine while their own Government introduce EM not for the good reason of helping the convicted criminal, but to save money and carry on the previous Government's policy of building and running privatised prisons (Hansard May 29th 1999: unnumbered).

Although Labour emphasise individual responsibility social and economic factors have been seen to influence crime rates. It could therefore be a contradiction that in some cases individuals are released early under HDC, but that in the case of some repeat offenders sentences are much harsher, with no real attempt to cure the cause of such behaviour through rehabilitation, probation or counselling.

Some statements by the Labour Government have added to the confusion that follows the ideology behind EM. Although Jack Straw has stated that he wished to reduce prison population, he has also defended their use.

Prisons, he confided, were ‘essentially a demand-led service’ and his priority was not to reduce the prison population but ‘to secure the safety of the public’ as if to imply that the former objective was invariably opposed to the latter’ (Brownlee 1998:190).

It would seem, as mentioned in previous chapters, that the Labour Government wish to reduce prison numbers but are conscious that the public are wary of punishment in the community. As Brownlee (1998:189) comments, the government have a perceived need to ‘talk tough on crime’. Measures involving EM are obviously less punitive than incarceration but the government is insistent that they should not be regarded as a soft option. This is echoed by sentencers who see monitoring as ‘a high-tariff sentences for serious offenders where custody is a possibility’ (Mortimer 1999:3)

Labour point to the Crime and Disorder Act and the new Sentencing Advisory Panel, to provide consistency and clarity in sentencing guidelines. These will be published so that ‘the public can get a clearer understanding of the sentence passed by the courts and increase their confidence in them’ (Hansard May 29th 1999).

One must bear in mind the reasons for the government advocating EM. It can be argued that combined with support from welfare agencies (including probation), monitoring can be a humane and rehabilitative way of punishing a criminal. It can also be argued that it is a

cheaper way of reducing an ever-expanding prison population. Labour promised the electorate that it will be tough on crime, but it is realistic for the electorate to expect budget efficiency whilst doing so.

Chapter Three

Costs and Benefits of Electronic Monitoring

Introduction

The position of orders involving EM within the spectrum of sentencing aims has been analysed. This chapter will consider the problems of an overcrowded prison system and the financial and ideological benefits of community punishments. The need for multi agency co-operation to facilitate orders involving EM will also be discussed.

Prison populations

The prison population has been increasing since the 1970s. During the Conservative reign of power Michael Howard's 'Prison Works' policy sent many more people into an already overcrowded and under funded prison system. Although previous Conservative and the current Labour governments have been extremely keen to be seen to be resolving prison-overcrowding problems, there has arguably been a lack of consistent policy concerning sentencing alternatives. Jack Straw has implemented EM, but at the same time introduced harsher sentences for repeat offenders. As one group of offenders are siphoned away from prisons, others are given longer sentences, thus perpetuating the trend of rising numbers of prisoners. It can also be noted that the average length of imprisonment handed out by the courts has been increasing over the past decade, this coupled with an increasing crime rate and more defendants receiving custodial sentences means that the general prison population is still increasing.

Commentators have suggested that politicians are unwilling to make drastic and radical changes in sentencing practices.

It appears that we have in Britain a burgeoning prison system which continues to expand at an alarming rate, presided over by a government which (a) knows that the prison system is too expensive, ineffective and self perpetuating; (b) has a gut reaction against the massive public expenditure needed to keep up with prison growth and (c) sees itself forced into a position of having to expand the system since the alternative would be to legislate to reduce the prison population, in the process alienating the judiciary, their own supporters and what they perceive as public opinion (Moody & Carr cited in Backett, McNeill & Yellowless 1988:177).

Moody et al were referring to a Thatcher led Tory Government but the subsequent Labour Government inherited many of its punitive criminal justice policies and an enormous prison population which has continued to rise.

Protection of the public has to be maintained as a priority. Communities have a right to expect the Government to protect them from harm. However the theory of rehabilitation must be considered. Criminals, despite their behaviour, are still citizens within a community (even if it is a prison community) and have a right to be treated humanely. It can be said that although expensive, incarceration is an easier logistical option than community punishments. 'The prison exists, as a convenient dumping ground, for all those people whether deserving or undeserving who courts choose to eject and dispose of as part of the process of excluding and curtailing people's liberty (Moody & Carr cited in Backett, McNeill & Yellowless 1988:184). A lack of clear Government policy is blamed for the crisis within prisons.

Current trends, with an emphasis on punishment, are left to steer themselves into action without the benefit of any clear and pragmatic policy about how to tackle the growing and taxing prison problem (Moody & Carr cited in Backett, McNeill & Yellowless 1988:184).

The rising population in our prisons gives reason for finding effective alternatives. Community based sentences, including EM, must be invested in and used to their full advantage if prison populations are to be reduced. It is interesting to note that although the current Labour government has campaigned to reduce crime, make communities safer and severely punish repeat offenders, it has enabled the development of community penalties including the CO and provided legislation to enable prisoners to be released early under the HDC Scheme. These could be viewed as less punitive measures and in contradiction with Labour's 'tough on crime, tough on the causes of crime' stance. The reason for this dichotomy could be that there are too many policy aims that affect criminal justice. Labour wants to reduce crime, (repeat offenders are receiving harsh sentences which is punitive in ideology) but at the same time reduce the prison population as it is too expensive and has been criticised for the lack of rehabilitation. This creates problems between the punitive aim it thinks the public wants and the rehabilitative aim it needs to give offenders in order for criminal behaviour to be reduced. Economic factors also influence policy, as community penalties are significantly cheaper than institutionalisation as described below.

Critique of prison regimes

In the debate around the principles and ideologies behind sentencing practices, there are commentaries that suggest prison sentences should be avoided at all costs.

Imprisonment does not work: it is not ordinarily a therapeutic experience; it can have a devastating effect on individuals and their families; it can and with depressing regularity does, lead to suicide; it confronts the offender with great difficulty in obtaining a job and re-establishing his life on release (Bingham cited in Brownlee 1998:193).

The author of this quote, the Lord Chief Justice of England Lord Bingham with his position in the criminal justice system has been responsible for incarcerating individuals, but obviously does not believe it has any rehabilitative qualities. It is therefore very important that alternatives to this system are developed. Sentencing philosophy, as discussed in Chapter 2 must be considered extremely carefully to justify the imprisonment of an individual. It is obviously an intensely punitive environment that does little for catering for an individual's social and rehabilitative needs.

If sentencers themselves believe that prisons are intolerable regimes then it is difficult to see how their continued use is justified. Even though protection of the public is paramount in political objectives, the majority of prisoners will not be incarcerated for life. If an individual's experience in prison is as bad as Lord Bingham implies, then it would seem that incarceration of an individual would only protect the public for a short-term period. Offenders must be rehabilitated effectively if they are going to stop being a danger to the public. If offenders leave prisons institutionalised and embittered towards the society and establishment that incarcerated them, then it is entirely likely that their criminal behaviour will continue.

Some commentators, although they may be seen as extreme, believe that prison is an intolerable use of state control. 'Prison is a type of violence, which enforces a state's power over its citizens, in the same way that rape and battering enforce the power of men over women' (Prisons and Social Control 1987:unnumbered).

Community sentences, by punishing and rehabilitating within the community, are more likely to be more constructive for offenders and therefore society at large, than imprisonment. EM used with a CO or as part of the Home Detention Scheme increases sentencing options available to the courts.

Party policy on the use of prison has in the past been varied. In 1990 a White Paper declared, 'for most offenders imprisonment has to be justified in terms of public protection, denunciation and retribution. Otherwise it can be an expensive way of making bad people worse.' This was followed a few years later by Michael Howard's famous 'Prison Works' ideology, which was greeted enthusiastically by a country concerned over the rise of crime. Policies and sentences inspired by this ideology resulted in a dramatic increase in offenders being incarcerated.

Costs

When considering the benefits of Community punishments the relative cost compared to imprisonment has to be considered. Figure 5 illustrates this; Figure 6 gives more up to date figures, which have taken into consideration the new CO sentence. During the second year trials of EM (July 1995) it was calculated that massive savings would be made if monitoring were implemented effectively.

In the longer term...the potential savings, based crudely on the current costs of custody (realised as reductions in the prison building programme and in running costs), could be in order of £20,000,000 to £30,000,000 a year. Balanced against the costs of EM, this implies an overall saving of several million pounds a year (Mortimer 1997:43).

Therefore both the CO with EM and the Home Detention Scheme are cheaper options than straight prison sentence. Furthermore if alternatives to custody are being promoted, then further savings will be made in a reduction of prison building plans.

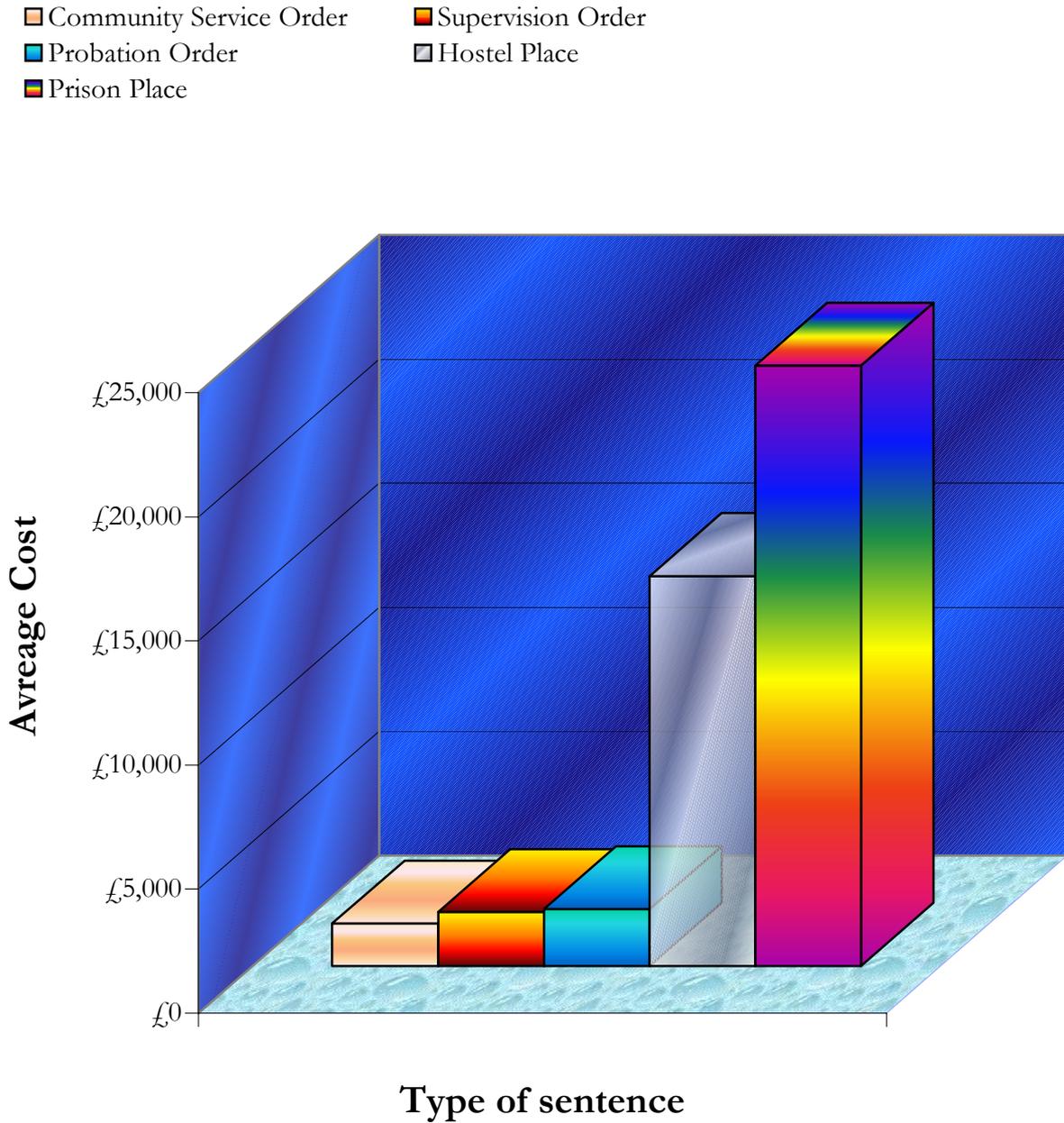


Figure 5: Average costs of sentencing for 1995-96
(Select Committee on Home Affairs 3rd report 1998:6)

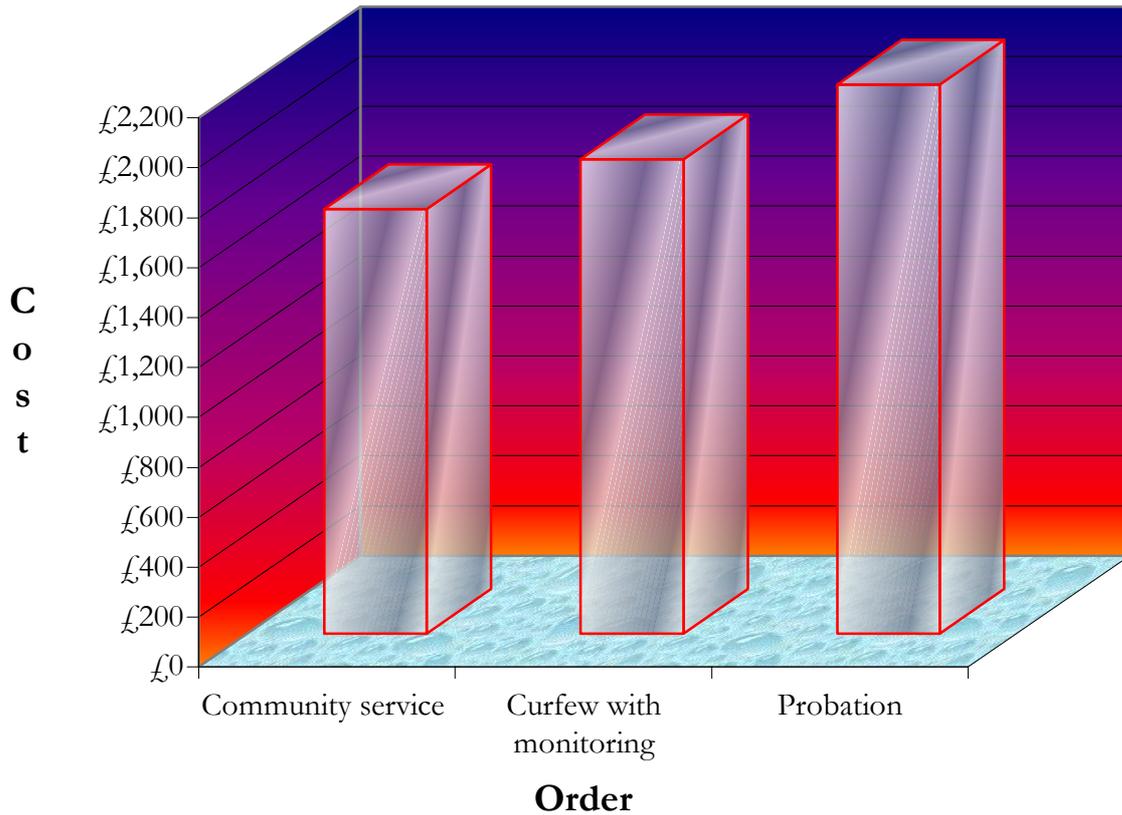


Figure 6: Average costs of different types of order for 1996/97

(Mortimer 1997:42)

Benefits of community punishment

It has been suggested that for those concerned with punishment and retribution of offenders, CO will not be as punitive as prison. Therefore if used as a direct alternative to incarceration it will be seen as a ‘soft option’. Judges themselves recognise this perception. The Lord Chief Justice in a speech on Criminal Sentencing stated:

Most important of all, is to convince the public that community sentencing is not a soft option. So long as it is perceived to be so, while the present vengeful mood of the public endures, courts will hesitate to make such orders... There is an educative job to be done... an essentially political task, as we recognised a few years ago when the thrust of governmental argument was, very clearly and explicitly in favour

of community penalties and against resort to custody save where it was truly and obviously necessary (Open Government website 1997:11).

This relies on clear Government policy and the public's ability to differentiate and appreciate the occasions where sentencers need to temper retribution with rehabilitation.

Imprisoning an individual obviously entails segregation from the community, removal from any existing or potential employment and dislocation from a family environment. This can be very destructive; community sentences can keep the offender in some kind of stable situation i.e. with their family, whilst they are being punished. EM (depending on curfew hours) can also mean that employment is possible.

(It should not be forgotten) that offenders are themselves members of the community, and that if decarceration is successful the need for social reintegration will be greater. It is all too easy, in discussing crime prevention, to paint a picture of law-abiding population at war with an inimical set of offenders (Harris 1992:162).

It can be argued that a CO may offer the offender a great deal more than prison. They are able to stay at home with family and friends, receive probationary treatment, carry on a job and have more freedom and privacy than experienced in a prison environment. During the original trial of EM, subjects were generally positive about the system; they had agreed to EM to stay out of prison. Two typical comments were 'It's a pain...but I either do the prison here where I can see my kids, or do it in a cell'; and 'Prison is a waste of time. You don't learn anything except how to break in' (Mair and Mortimer 1996:21).

Agency co-operation needed for community sentences

EM has been hailed as the way forward for releasing prison space. It may be dangerous however, merely to release prisoners into the community with monitoring devices, unless criminal justice agencies and communities are prepared.

The recent history of 'alternative to custody' has been fully rehearsed elsewhere...it has not been an especially happy history, with repeated tendency for things to go wrong, for strategies designed to empty prisons serving to fill them up (Harris 1992:159).

Through CO the government is trying to increase the number of community sentencing options. For these to work multi-agency co-operation is vital. In Chapter 2 criticisms of EM programmes were cited arising from the lack of welfare or probation help. (A brief description of agency roles in HDC can be seen in Appendix 3). It is felt that COs without such assistance could increase the risk of offenders breaking curfew conditions or re-offending. This need for welfare back up must be recognised by the sentencers themselves.

Agency sanction is of course important, but it is impossible to have a coherent system of criminal justice when ... magistrates are discouraged by clerks from visiting and becoming involved in the very facilities to which they are sentencing offenders... Nor can it be proper for local community interests...not to have a say and play a part in an integrated strategy involving crime prevention, victim support and community involvement as well as the management of offenders (Harris 1992:160).

Harris's comment came before EM was implemented, but it could be argued that his words are still significant now that another community punishment has been put on the menu of sentences. If those who are monitored are not assisted in terms of rehabilitation they are more likely to re-offend or break curfew conditions, resulting in both cases in a return to prison.

Agency co-operation is vital throughout the process of implementing HDCs and COs. Prior to early releases of prisoners under the HDC risk assessments are carried out on those eligible. Agency co-operation ensures these are done effectively. Documents in Appendix 4 show forms that various criminal justice agents, e.g. the police are required to fill in.

The government has tried to ensure that clear policy and sentencing guidelines are produced and maintained, so that sentencers understand the application of community sentences. Public confidence in community sentences has to be nurtured to ensure success.

The first (key message) is the importance of involving the local community at every stage in the process...It is self evident that we cannot make communities safer if we do not find out the extent to which local people currently perceive them as unsafe; and is it clearly right that these people should be invited to participate actively in the process of tackling local problems, not just passively consulted about them (Straw cited in Brownlee 1998:6).

In conclusion it would appear that both methods involving EM are reducing the prison population. The use of community punishments can in itself have a positive impact on the individual and society as a whole. It can also reduce government expenditure, as community punishments are cheaper than prison. Both HDCs and COs are in their relative infancy when

considered alongside other penalties. It should now be considered who is receiving these punishments and how successful they have been

.

Chapter Four

Discussion and analysis of completion rates of the Home Detention Curfew and the Curfew Order

Introduction

Previous chapters have discussed the use of EM to facilitate the Government's sentencing aims and ideologies. This chapter will look at the practical application of these orders and how successful they have been in the past couple of years. Analysis will encompass: the current capabilities of tailoring monitoring schemes to an individual's needs; prescription and completion rates for both the HDC and the CO; and the possible extension of the use of EM due to technological developments.

Extending the use of electronic monitoring

When assessing the success of the Home Detention Scheme and the CO, it is important to analyse release and completion rates. These two schemes have been successful and appear to have achieved the Government's aim of reducing the prison population. By examining who has been released under the HDC and who was sentenced to the CO, it may be possible to determine what kind of crimes and offenders are deemed suitable to receive these orders. The Crime (Sentences) Act 1997 made COs available for three new groups of offenders; fine defaulters, persistent petty offenders and children aged between 10 and 15 years. Although COs were useful in reducing the numbers of individuals incarcerated for these crimes, it could be argued that the process of net widening that will be discussed in Chapter 5. Technological developments have enabled EM to be used to protect potential targeted victims of crime; this will be discussed later in the chapter.

Influence of public opinion

As discussed in previous chapters, it is vital that the public has confidence in the ability of the courts to protect communities who are endangered by criminals' behaviour. If courts can assure the public that, for example, burglars can be kept away from an area where they normally commit crime, the result will be increased confidence in the use of community sentences. Public debate, reflected to the establishment via the media, can affect the court's perception of certain sentences. Public concern over certain types of crime can generate a moral panic, which can be heightened and in some cases induced by press coverage. For example, during the trial of the children who murdered toddler Jamie Bulger, there was intense public and media pressure for the boys to receive lengthy sentences. It appeared that this was taken on board by the Home Secretary who intervened in the case and set very high sentences. It can be argued that this was a direct reaction to public pressure encouraged by the national media. Lord Bingham suggests that sentencers must have a wider regard for public interest when passing sentence in order to maintain public confidence (Bingham 1987:8). In the Bulger case the Home Secretary's wish to placate public opinion backfired, as recently it was deemed by the European Court of Human Rights that his actions were illegal.

The use of electronic monitoring to reduce specific criminal behaviour

EM allows the authorities to restrict the liberty of the offender by time and location enabling courts to tailor the sentence to the individual's case. Therefore a burglar, who commits his/her crimes at night and in certain areas, can have a curfew that requires them to stay at home during the hours of darkness and prohibits them from certain locations. Similarly a paedophile can be curfewed to prevent him/her from going near children's play areas etc. This ensures the element of public protection that was desired by the government when introducing COs.

One benefit of individually tailoring measures involving EM is that this allows courts to provide help for offenders to reduce their criminal activity. It encourages individuals to face up to their responsibility for committing those crimes. The Labour government, and Blair in particular, stress the importance of personal responsibility and its impact on the community. His government has emphasised 'citizenship' within society and the duties this entails 'The duties we enjoy reflect the responsibilities we owe' (Labour Party manifesto 1997:unnumbered). It is felt by some that incarceration, although punitive in the extreme, does not encourage criminals to face up to responsibility for their behaviour. Campling (1995:98) suggests that imprisonment removes the obligation for a criminal to take responsibility for their behaviour. He states that community punishment is a more economical way of encouraging offenders to rehabilitate and reintegrate into society and reduce criminal behaviour.

Eliminating future criminal behaviour requires both rehabilitation and deterrence in sentencing philosophy and practise. A CO could be given alongside probation or other agency help to eliminate habits that perpetuate criminal behaviour, e.g. drug abuse. Criminal justice agencies have viewed joint orders positively. The majority of probation staff saw stand-alone COs as 'non-constructive' as they did not provide reparation or tackle offender rehabilitation. However, they felt the discipline imposed on an offender's lifestyle by a curfew could enhance the success of work to challenge offending behaviour. Most magistrates welcomed this opportunity to 'link punishment and help' (Mortimer 1999:4). It is anticipated that recidivism will be reduced by tailoring COs to reduce specific criminal behaviours, thus breaking cycles of criminal activity and saving the taxpayer money on punishments and court costs.

Types of offence attracting electronic monitoring orders

The statistics portrayed in Figure 7 illustrate which offences were attracting COs during the initial trials. A broad range of offences are cited, some of which in the past would have been quite likely to attract prison sentences, in order to ensure protection of the public, e.g. sexual offences. Interviews with sentencers involved in the trial suggested,

Custody was 'seriously considered' for nearly two thirds of those on whom a curfew was imposed. Taking the estimate of 8,000 COs and assuming that two thirds of these replace sentences of three months' custody we estimate that more than 1,300 prison places would be saved on national roll out (Mortimer 1997:43).

Assaulting a police officer is an offence that usually attracts a high tariff punishment with the aim of general and individual deterrence. Therefore by using a CO in these cases, it is clear that the courts regard EM as highly punitive and effective in terms of deterrence and punishment.

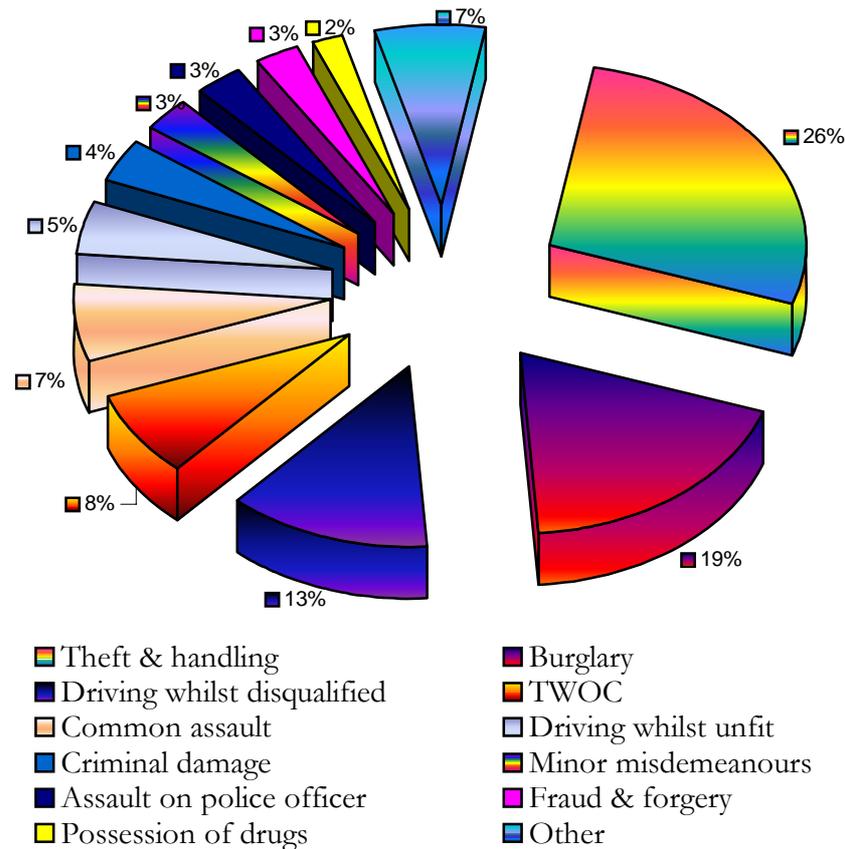


Figure 7: Main offences attracting COs in 2nd Year of Trials (1997)
(Mortimer 1997: 13)

A total number of 375 crimes involving 17 different types of crime were deemed suitable to receive the CO during the trial. It can be assumed that these involved a large spectrum of sentencing aims. There are two possible conclusions to be drawn; either the CO is a flexible and adaptable sentence that can fulfil a number of sentencing aims and ideologies; or developments in the technology of monitoring have enabled a process of net-widening within the criminal justice system. Unless the CO is specifically targeted at offenders who need to be monitored in terms of time and location, its use will be merely punitive and could be used as an ‘add-on’ punishment to other community sentences. It could be argued that this raises ethical issues surrounding the extent of a government’s power to monitor an individual in the name of punishment.

It has already been suggested in previous chapters that the ability of prison to rehabilitate an offender is highly questionable. The community can provide a much more constructive environment for an offender to receive both punishment and rehabilitation. The use of COs can ensure that these aims are fulfilled with more humanity than is possible in an overcrowded prison regime. At the beginning of this year the Home Office released a document entitled 'National Standards For the Supervision of Offenders In The Community 2000' with the aim of ensuring that sentencing aims are defined and maintained when individuals are punished in the community. It states that supervision in the community of either post-custodial licences or community orders shall (among other things) 'contribute to the protection of the public and aid reintegration as a law abiding member of the community' (Home Office 2000:7). It would appear that EM may contribute to satisfying these aims.

Completion rates

As shown in Figure 8, the completion rates for the CO have been high, thereby enabling offenders to avoid incarceration (if there is a breach of curfew conditions, a prison sentence is likely). These high success rates 'may be the result of effective targeting of cases in pre-sentence reports, and/or offenders' fear of custody as a likely outcome of breach' (Mortimer 1999:2). It can also be noted that high completion rates occur when there is a low number of sentence cases.

<u>Offence type</u>	<u>Valid cases (No.)</u>	<u>Complete Rate (%)</u>
Violence	51	78%
Burglary	77	74%
Theft and handling	129	77%
Drugs offences	13	92%
Offences of dishonesty	14	100%
Criminal damage	12	100%
TWOC	31	74%
Driving while disqualified	64	91%
Driving while intoxicated	21	85%

**Figure 8: Completion for COs with EM by main offence type,
July 1995 to June 1997**

The completion rate for offences of dishonesty was 100% but there were only 14 sentences passed. Where there were more cases, the completion percentage was reduced. The seriousness and character of the crime must also be analysed. Driving whilst disqualified, which had a high completion rate, can be deemed a lesser offence than that of burglary where the rate reduced to 74%.

This could be an indication of the criminal capabilities of the individual receiving the sentence. It can be expected that completion rates will be higher for lesser crimes. A conviction for violence may be the result of one-off, impetuous criminal behaviour, e.g., a drunken fight. Whereas theft and handling or burglary convictions are likely to be part of more frequent criminal behaviour. It can be argued that in the former case, an individual is more likely to want to serve their sentence and return to living a crime free life as quickly as possible. It is the element of rehabilitation achievable in the CO that becomes important in

these situations. It can be used to encourage both occasional criminals and those who embark on 'criminal careers' to assess and reform their behaviour.

Curfew orders as alternatives to custody

Figure 9 illustrates another example of the success of EM in terms of diverting offenders from custody. Concern has previously been expressed about the numbers of fine defaulters incarcerated by the courts. The Magistrates' Association, NACRO and the Prison Service suggested in the early 1990s that courts should be allowed to use an alternative penalty for fine default. 'In 1995, a judgement emphasised the statutory requirement on magistrates to explain their reasons for not using alternative enforcement measures before committing someone aged under 21 to prison for fine default' (Elliot and Airs 1997:2). There was an immediate reduction in the number of defaulters sentenced to prison, and COs are now used alongside other community penalties as a prison alternative. However, it could be argued that the CO is used as a net widening measure in the case of fine defaulters. In most cases the fine (on which they are defaulting) was imposed for another criminal offence; a fine is a low tariff sentence but a CO is considered a high tariff sentence. It is assumed that a CO is not tailored to eliminate the repetition of the crime that originated the fine, but as a punishment for not paying that fine. Therefore if a person is unable to pay, a CO is a highly punitive sanction on top of an existing fine. It could be argued that this is another example of COs being used not only as a punishment but also as a net widening measure, which is giving harsh treatment to those who are financially unable to pay fines.

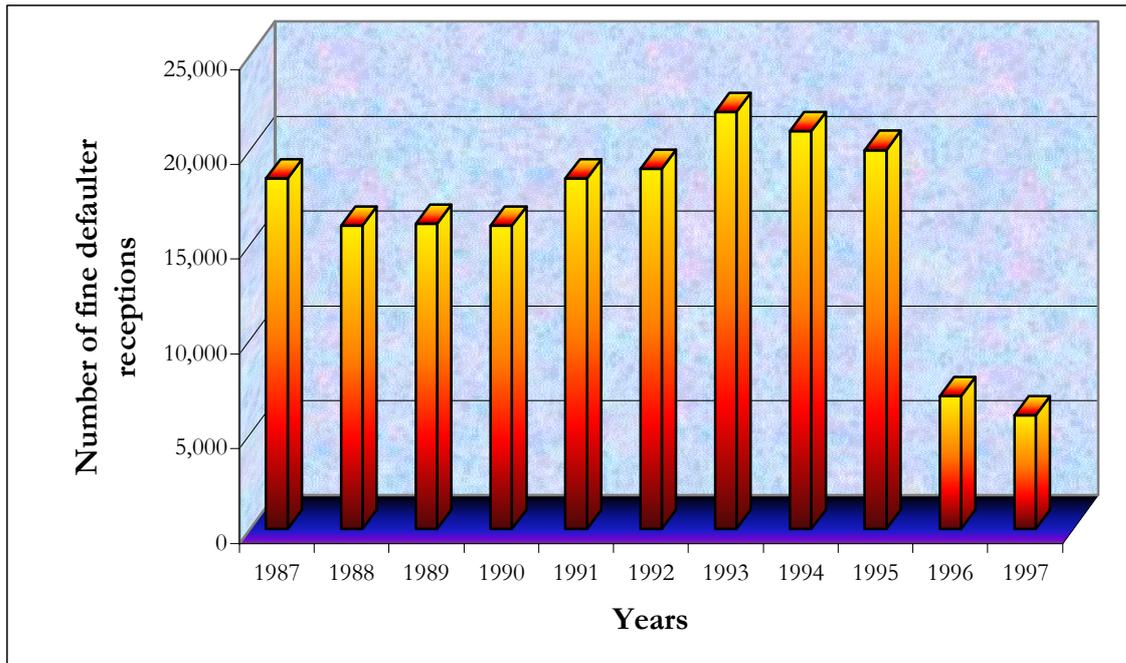
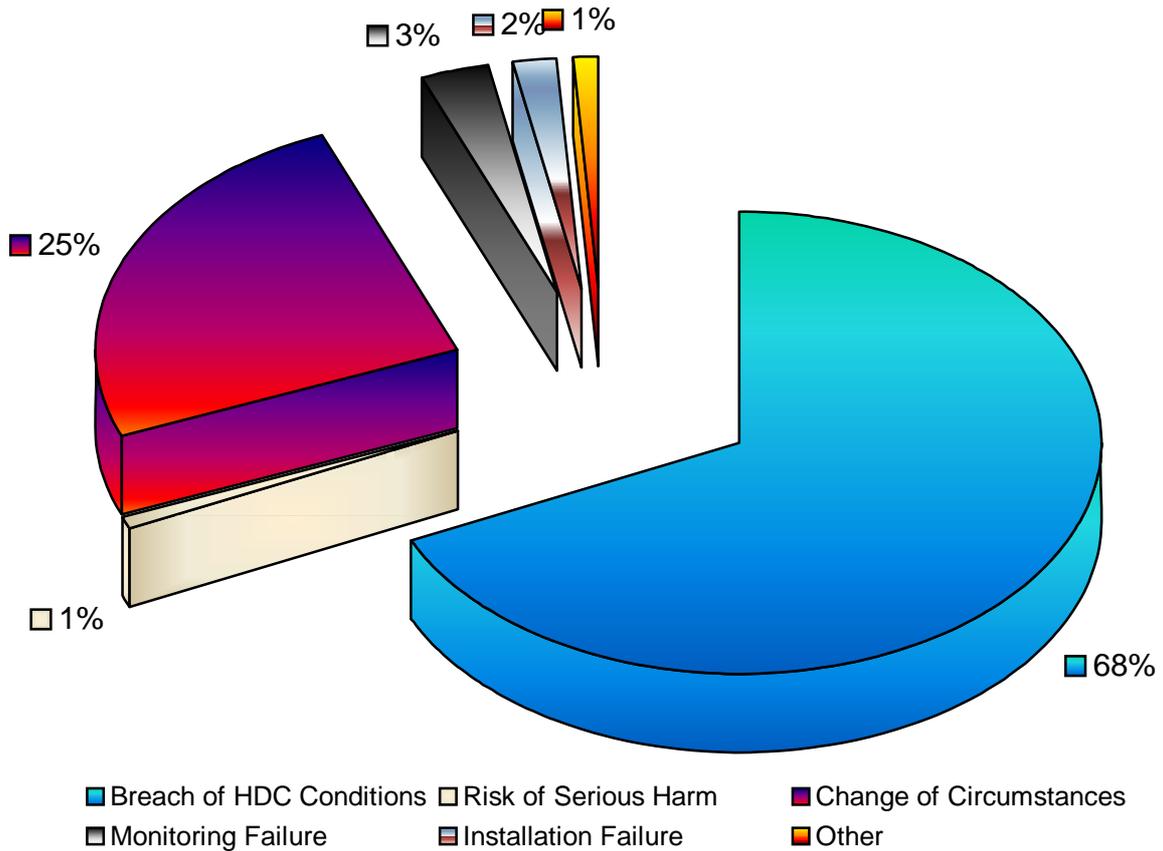


Figure 9: Fine defaulter receptions to prisons 1987 to 1997
(Elliot and Airs 2000:2)

Home detention curfew success rates

The current compliance rate of those on HDC stands at 95%. Its rehabilitative aims have been accepted by the media who describe curfews as ‘providing a bridging period for offenders between incarceration and freedom’ (BBC News 2000). Eligibility tests and conditions apply to those suitable for the HDC as discussed in Chapter 1. Any prisoner aged over 18 sentenced for between three months and four years can be considered for release up to 60 days early under the scheme. A risk assessment carried out by the prison governor ‘attempts to determine the likelihood of the prisoner re-offending and complying with curfew conditions’ (Mortimer 2000:2). The risk assessment procedure is very thorough and takes into consideration elements such as domestic circumstances of the offender and known locations of victims. Several agencies are consulted whilst processing risk assessments and the required forms can be seen in Appendix 4. Ultimately, it is the decision of the prison governor whether or not someone is suitable for early release. With public and media pressure scrutinising the

use of such new sentences, it is unlikely that the authorities would take any risks by releasing someone who posed a threat to the public, or was unlikely to conform to curfew conditions. This could be the reason why the high success rate of 95% was achieved during the first year of the HDC. It is hoped that less media scrutiny will not mean a relaxation of the risk assessments carried out and that protection of the public will always remain a priority.



**Figure 10: Reasons for recall of offenders under HDC
From January to 30 November 1999 (Mortimer 2000:3)**

At this stage it is too early to assess recidivism rates for those released early or sentenced to the CO. However, a gender difference has been noted in relation to release rates; currently 40% of women compared to 30% of male prisoners are being released early under the scheme. ‘This may be connected with the fact that women tend to have lower reconviction rates, which will be reflected in the HDC risk assessment’ (Dodgson 2000:2)

Only 656 out of 16,000 released on HDC were recalled to prison. Of the 656, as shown in figure 10, only 3% were recalled as they posed a threat to the public. This indicates that the risk assessments that are being carried out on prisoners prior to release have successfully eliminated most of those who are likely to re-offend or breach conditions. It therefore seems that the government's ideological aim of ensuring public protection by means of EM is being realised. The most prominent reason for recall is a breach of HDC conditions. Curfew hours and locations that are forbidden to the offender are incorporated in the conditions, which may also include restrictions on who is allowed to visit the offender's home and at what times. The low percentage recall for monitoring failure indicates that the technology is proving reliable.

Technological developments

Recent developments in monitoring technology have enabled the government to plan to extend the curfew's capabilities. Advanced electronic tags will be used on stalkers, wife-beaters and sex offenders. This development is aimed at giving greater protection to the victims of crime. 'The new tags will be linked to devices in the victims' homes and trigger an alarm if the wearer approaches' (BBC News 2000). These measures are contained in the Criminal Justice and Court Service Bill to be published by the Home Secretary, Jack Straw. The government have obviously felt that the current uses of measures involving EM have been successful, and this confidence is demonstrated by their plans to extend its use. Technological advances will enable better protection for the public, specifically those at risk from, for example, wife beaters and sex criminals. However caution must be maintained on using EM for these groups. Traditionally offenders such as sex criminals, paedophiles etc are greeted with public hysteria once they are released into the community. Already sex criminals remain on a register for years after they have served their time. A possible extension of EM

would be to control such offenders for prolonged periods of time. This would contradict the ideological aim of public protection and may involve protection of the individual from the public. If we are to believe in the success of rehabilitation, offenders must be allowed to lead a normal life after serving their sentence, free from further interference or monitoring from the state

Chapter Five

The implications of electronic monitoring

Introduction

Statistics analysed so far suggest that penalties involving EM have been successful. This chapter will consider the implication of expanding the sentencing menu to accommodate this new technology. The views of offenders, families of offenders and sentencers will be examined to highlight advantages and problems that may arise due to the implication of current measures.

Sentencing Reform

At the beginning of the 1990s the Government set about designing policies to reform sentencing to ensure that community sentences were used and understood effectively. The aim was to create a 'coherent framework for the use of financial, community and custodial punishments'. The 1991 Criminal Justice Act set down sentencing principles and a sentencing framework seen in Figure 11.

'One of the primary aims of the 1991 Act was to promote community penalties as tough and demanding, and as realistic options for courts who were to be discouraged from overuse of custodial sentences.'(Newburn 1995:118) The Green Paper, which had preceded the Act, stated: 'Imprisonment is not the most effective punishment for most crimes. Custody should be reserved as punishment for very serious offences, especially when the offender is violent and a continuing risk to the public' (Select Committee on Home Affairs 1998:35). The Government wanted to increase confidence in non-custodial sentences and reduce the notion that community

punishments are a soft option when compared to incarceration. The trials for EM were instigated at this time, with a long-term aim of reducing prison numbers.

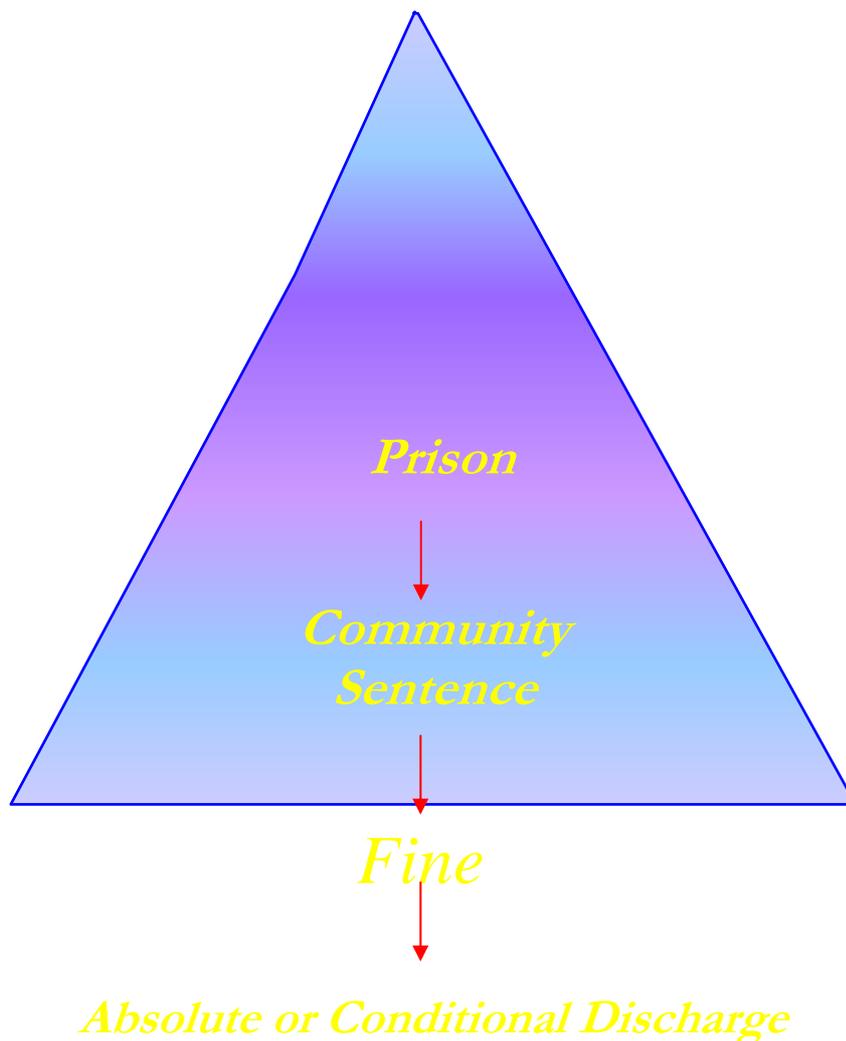


Figure 11: Sentencing Principles and Framework (Brownlee 1998:7)

Restricting liberty

Within the terms of criminology, prison may be seen as the ultimate form of social control whereby individuals are placed outside of society and their behaviour controlled for the period of the prison sentence. EM, although conducted within society, may also be viewed as a form of social control. Liberty is restricted and movements are determined by a curfew.

Critics of tagging see it as redolent of excessive state control, as an oppressive instrument of the increasingly stringent apparatus of criminal sanction or as a technological gimmick which has little to offer the complex process of reducing re-offending (Whitfield 1997: 7).

Sentencing philosophies, which were examined in Chapter 2, play a significant part in the justification of the use of EM. EM is considered sufficiently punitive to act as a punishment but with the rehabilitative qualities of a community sentence.

Net widening

The fear of expanding the prison system has been recognised by academics and criminal justice practitioners. Technological capabilities have enabled the development of different systems of restricting, punishing and correcting criminal behaviour. Closed circuit cameras are now commonplace in most high streets to deter and monitor street crime. When this technology first emerged and its capabilities were realised, concerns were put forward similar to the reservations which were expressed over the use of electronic monitoring.

Phrases such as net widening (more people subject to control); net strengthening (Sanctions such as probation and social work supervision having added requirements); blurring of the boundaries (between liberty and confinement) became part of the academic discourse of criminologists and the professional discourse of the criminal justice practitioners...a principle of disciplinary surveillance which could be most fully realised in the prison...which was present to varying degrees in most of the innovations of contemporary control (Maguire et al 1996:6).

Although these concerns have been noted, it has not noticeably impeded the progress of the development and use of monitoring technology.

The use of EM devices raises the fear that we may be headed toward the type of society described in George Orwell's book 1984...legal theorists examine the use of EM equipment from a perspective of infringement upon an offender's right to privacy...and cruel and unusual punishment (Computer and Law Website 1996:6).

If electronic monitoring is used as a sentence only as an alternative to incarceration, then these arguments are weak. However, the development of monitoring equipment can be seen by human rights activists as worrying but seems to have been deemed acceptable by criminal justice agencies and governments, although some people have expressed concern.

A spokesman from the Howard League of Penal reform stated that there was a danger that tagging could set a precedent for other technologies to be used in punishment. Some American states used electronic shackles more widely, and for people who would not normally have been jailed (BBC News 1999:3).

The fear of EM being merely a net widening method could echo previous warnings made by Stanley Cohen in 1979. He feared that incarceration and the developing of community sentences were merely increasing the possibilities of authorities applying social control (Hudson 1997:465). Ashworth suggests that the 1991 Criminal Justice Act, with its plans for EM, rekindled Cohen's warnings.

On one view this is the inevitable price for any element of progress in a society whose political system is much affected by punitive lobbies: the greater use of non-custodial sanctions can only be bought by making them tougher, and also perhaps by continuing to imprison certain groups of offenders for extremely long periods (Ashworth 1997:1127).

It would seem that no matter how many non-custodial alternatives are used, there would always be a call for longer sentences for serious offenders. This is entirely in keeping with the desire to punish severe crimes and to protect the public. However it will always restrict the possibilities of reducing the prison population.

Offenders' experiences of monitoring

The implications for the receiver of the sentence must be recognised to understand the full implications of the use of technology in this matter. Community sentences are often criticised and offenders are presented as 'getting away with it' merely because they are not incarcerated. 'Incarceration is considered the norm; a disposition that does not conform to the norm is regarded as... a lenient sentence...public interest demands that the offender is sent to jail' (Williams cited in Schulz 1995:27). For some, electronic monitoring is viewed harshly and unacceptable even when compared to imprisonment. 'Issues such as whether EM violates the offender's mobility rights, violates the offender's rights to privacy, contravenes the principles of fundamental justice' (Schulz 1995:27)

So long as the courts recognise the punitive element of electronic monitoring it is hoped that the sentence will not be over used or abused. During his analysis of COs, Mortimer found

that they were seen as an alternative to custody and the higher end community penalties (Mortimer1999:6). Offenders themselves see electronic monitoring as a real punishment. 'Two interviewees said that monitoring was more punitive than custody: 'Its just a wind up – I'd rather be inside.' This offender was on a 23-hour curfew and was residing at a hostel, having been on remand for 10 months, and found the situation particularly intolerable. He later absconded and ended up remanded in custody again (Mair & Nee 1990:56).

Impact on the family

Families and offenders saw long curfews as particularly oppressive, as domestic problems were likely to arise.

Families could be put under a lot of pressure. It might be difficult to explain to children or neighbours why a person could not go out at certain times; members of a family could be made more aware of the possible strains and stresses that monitoring could impose (Francoise Richardson 1999:56).

The effect of electronic monitoring on the family must also be considered. Spouses and children will have their lives quite severely affected by a tagged person living in the house. Some curfews prohibit friends and family from visiting the house of the offender, which could severely affect the family as a whole. During the first two trials of EM stress in the household was found to be an issue. However, it can be presumed that in most cases relatives would prefer an offender to be at home than in prison.

Community penalties can be criticised for putting too much pressure on families who have responsibility for the care of offenders within the community. If adequate support from

criminal justice agencies is not given to families, friends and offenders themselves, then it is less likely the sentence will be completed properly. The stress experienced by families housing an offender could be described as exploitative by authorities that release prisoners or offenders into their care.

It could be argued that monitoring is only used as a cheap way of passing offenders through the criminal justice system. Incarceration has already been shown as a much more expensive method of punishment than alternatives in the community. However current debates around community care state that if community methods were funded adequately for the amount of support needed to make orders successful, it would not be a cheaper alternative than institution based punishment. The government has been criticised for using community-based punishments as a cheaper alternative that appeases public pressure to reduce prison numbers, rather than because it is more effective and humane way of treating criminals.

Sentencers' perception of EM

Not only is it imperative that public confidence in electronic monitoring is established, but the opinions of sentencers on its uses and drawbacks are also vital. Sentencers will not use options that they believe are unviable or do not fit properly into established theoretical frameworks. If magistrates see the sentence as a soft option they will not use it. Courts should also be aware of the implications of the sentences they are passing.

The Home Affairs Committee on Alternatives to Prison Sentences stated 'We believe it is essential for sentencers to be aware of the results of the sentences they make in terms of their success, or otherwise...without such knowledge they remain ignorant of the effectiveness of the various sentencing options available to them' (House of Commons - Home Affairs

Committee 1998:35). In the same report NACRO argued that 'If sentencers' confidence is to be increased, it is important that they receive more systematic feedback on the success of individuals whom they and their colleagues have sentenced and on the overall success rates of local community supervision programmes' (Hedderman et al 1999:35).

The use of electronic monitoring has many positive affects for the offender; contact with the family, continued employment, etc. 'Tagging is the perfect Straw policy because it does the right thing - releasing prisoners into more constructive sentences in the community-while sounding draconian enough to please the Daily Mail' (The Guardian 1999:2).

Electronic monitoring serves many sentencing theories in a practical manner. An offender's life will be less disrupted than if he received a prison sentence. Close proximity to family and professional agencies mean that support is easily available to those receiving the sentences. It also puts more pressure on the offender to take responsibility for his/her own situation. Curfew conditions are easily broken and this could result in imprisonment. However, responsibility could be seen in a positive light:

Research has shown that situations that force offenders to take responsibility for their decision and actions on a regular basis are more likely to be associated with decrease in criminal behaviour than others. This does not justify punitive sanctions aimed merely at incapacitation, deterrence or retribution, but does support the increased use of a graduated continuum of community based sanction for non-violent offenders (Sanderson 1999:4).

Conclusion

It is important that any new sentences implemented by the Government are not unquestioningly accepted. New measures must be of benefit to both criminals and community with the long-term aim of reducing crime. It has therefore been important to consider the opinions of both sentencers and receivers of COs and HDCs.

Chapter Six

Analysis and conclusions

Introduction

Having analysed and discussed the development and use of EM, it is important critically to examine how the future can be affected by its continued use. This chapter will form a conclusion to the dissertation by examining ideologies that have been thematic in the implementation of EM. It will also highlight specific areas, which should be maintained, challenged or changed to ensure that EM is used to its full potential. However, the issues of social control and net widening must be monitored so they do not marginalize the rights of the offender. This is of significance not only for the government that introduced it, but also for those whose lives will be directly affected by it; the public and of course the offenders who will be required to wear electronic tags.

Social control

When examining the implications that punishments can have on society, Foucault is ideologically very influential. He examined how individuals are socially constructed and dominated by regulation, discipline and normalisation. The criminal justice system plays a large part in this process of 'normalisation', whereby unacceptable behaviour can be punished or modified and in contrast non-criminal behaviour is deemed 'acceptable' and is promoted as the norm. Increasing state control can also be seen as part of the process of normalisation.

As a result of Foucault's work, there is now a much greater sensitivity to the nuances of penal measures and to what they can tell us about the regulatory means

through which we are governed and the forms of subjectivity (or objectivity) into which offenders are pressed. Terms such as ‘regulation’, ‘knowledge’, ‘normalisation’, ‘governmentality’ and ‘discipline’ have come to hold a central place in his ‘revisionist’ literature of social control (Garland 1990 cited in Muncie 1999:213).

EM by its implementation has been deemed acceptable as state control. Foucault’s work is still highly regarded and the key elements of his arguments may be seen in Figure 12.

<ul style="list-style-type: none"> • The punitive techniques of supervision and surveillance first formulated in the prison have penetrated the whole of society
<ul style="list-style-type: none"> • Punishment is aimed not at the body, but towards training the human soul.
<ul style="list-style-type: none"> • Such techniques are directed not only towards offenders, but to all departures from the norm.
<ul style="list-style-type: none"> • Disciplinary networks become normal, legitimate and ‘normalised’ elements of the social landscape.
<ul style="list-style-type: none"> • Social control becomes diffuse, hidden and dispersed.
<ul style="list-style-type: none"> • Social control is exercised not simply through the state but through power-knowledge strategies. As a result control may be pervasive but is always contingent. It produces resistance as well as subjugation.

Figure 12: Foucault’s ‘Discipline and Punish’ (Muncie 1999:213)

It is essential that any policies, such as EM, implemented by the government be critically examined. As described above, social control is a highly powerful and wide-ranging ideology used by governments, which can affect society as a whole. Therefore new measures must not be unquestioningly introduced, but analysed and subjected to critical discussion. In a

democracy this is relatively freely done, but we can only benefit from this freedom to participate politically if we use our voice to influence those in power. It is therefore very important to conduct objective research and the purpose of this dissertation is to continue this process.

Government policy

The government's rationale behind implementing HDCs and CO must be examined in order to determine what political objectives it is aiming to achieve. Prisons are very draining on the national budget but are an obvious method of public protection and punishment. A dichotomy exists between Labour's policy of being tough on crime and the financial responsibilities this entails. Wilson and Ashton (1998) suggested that the main reason for Labour's 1997 election victory was its tough stance on crime. The party shied away from criticising the 'prison works' philosophy, which under Michael Howard incarcerated huge numbers of criminals. However in their Crime and Disorder Bill they stated that they wished to cut prison numbers. It would seem that the financial implications of being tough on crime were too hard to bear.

The Government hopes to save £100 million a year through introduction of the scheme (HDC). Thus, on one hand through monitoring the Government seeks to reduce prison population on the other hand (through the adoption of 3-year jail sentences for persistent burglars) there will be an inevitable increase in the number of inmates. Cynics might suggest that the former is simply a way of making room for the latter (Stephens 2000:114).

It must be concluded that for whatever reasons, the government has shown faith and determination that orders involving EM are a good way of reducing prison numbers. Tough

sentences for repeat offenders will ensure that the public perceive the government as tough on crime, whereas more discerning examination will reveal that Labour has released more prisoners than any previous government. However, for any party who wishes to employ humanitarian and progressive approaches to punishing criminals, there will always be criticism and public pressure from those who believe that locking up criminals is the only way to stabilise and protect the communities they live in.

Punishment in the community

The most prominent conflict of interests in the use of EM is between the desire to promote community punishments and the public perception that anything other than prison is a soft option. It seems that the establishment's perceived solution for this problem is to ensure that community penalties are highly punitive.

Community penalties reflect a greater concern for the interest of the public than the needs of the offender. As such, they have moved away from being treatment-orientated alternatives to custody to being a more punishment orientated sanction for crimes of intermediary seriousness with stress on just deserts and denunciation (Davies 1998 cited in Stephens 2000:117).

During the original trials it was found that sentencers considered EM to be a high tariff sanction. Mair and Nee (1990:51) suggested that it should be used as a direct alternative to custody. Due to the nature of a sentence involving EM this recommendation should be considered very seriously.

Net widening

The theme of expanding the sentencing menu has been extensively analysed but the fears that it raises are genuine reasons for not exploiting sentences involving EM. Foucault's theories on normalisation and state control can be viewed as a somewhat extreme interpretation of the risks of state exploitation of technology. However the message he projects is a realistic concern in such a highly technologically advanced age. A great deal of trust and power is given to governments and there is wide acceptance of the concept that it is necessary to punish criminals. This does not mean that unlimited numbers of penalties are suitable to all criminals.

Community penalties themselves seem to exist in a state of some confusion. They have, within 30 years or so, been justified primarily on the grounds of rehabilitation, then as offering diversion from custody and they are currently expected to provide punishment in the community – although it remains unclear what this means in practice on the ground, rehabilitation is staging a major comeback (Mair cited in Maguire et al 1997:1225).

EM must be used appropriately and not as a means of making community penalties unnecessarily punitive. The use of EM as an added punishment would undermine and abuse its power to reduce prison populations and decrease the potential for rehabilitation within the community. Sentencing theories must be ideologically sound and practised consistently to achieve fairness in the treatment of offenders. As seen in Chapter 2, there are a variety of sentencing ideologies which influence the government's current policy, and EM must fit within these. Some crimes, for example paedophilia, arouse intense public reaction. This can put pressure on sentencers to pass punitive and lengthy sentences. Public opinion and protection must be a concern in sentencing practice, but so too must the rights and future of

offenders. Treatment and rehabilitation must always be a consideration alongside, not instead of punishment.

The Home Secretary stated (in a speech to Parliament 21st July 1998) ‘prisons will only fully protect the public if they not only incarcerate prisoner securely during their sentence, but also reduce offending on release’ (Ashworth 2000:145). For critics of EM who claim that it is a soft option when compared to incarceration it must be considered that 95% of inmates will have to leave prison at some time. Merely increasing prison sentences and incarcerating greater numbers of criminals will not automatically result in a reduction in crime, and will not effectively act as a general or individual deterrent for criminals.

Critique of prisons

It can be argued that prison is an ineffective and inhumane way of punishing and treating criminals.

Imprisonment creates as many problems as it solves...in short, along with the financial burden and opportunity costs they impose, prisons decrease the individual’s capability to function in society and exacerbate the very traits that cause crime in the first place (Schulz 1995:239).

EM provides an opportunity to divert criminals from prison, which can only be seen as a positive move. Prison regimes can cause huge disruption and distress to already potentially chaotic lives of criminals and their families. EM can mean that families are not separated, employment can be maintained and the marginalisation of social skills resulting from institutionalisation can be avoided. Public protection must be maintained, and if a criminal is a

genuine threat to the public then a CO may not be appropriate. However with risk assessment for those eligible for HDC and careful sentencing procedures for receivers of CO, punishment can be delivered with less disruption than would result from a prison regime and with more humanity, as befits a developed society.

Reliance on technology

It might be argued that, in the current climate of technological development, it could be too easy for governments to implement EM in the hope that it would be the solution to many problems. During the past decade the prison population and the financial costs of incarceration were both spiralling out of control. The government needed a solution for these problems and EM could be seen as the perfect solution. A community punishment, which was combined with an electronic tag, could give the public reassurance that the offender was receiving a harsh punishment including restriction of liberty and public protection. However, there is a concern that EM is an all too convenient easy option.

In the age of electronics it is not surprising that some have hoped that EM would be a technological magic bullet solving difficult problems with little effort or COs. To those who have seen other new promising innovations, it comes as no surprise that there is no magic bullet (Brownlee 1998:122).

There is a real danger that the government could rely too heavily on EM to solve the prison population crisis without addressing issues to ensure that the offender will be adequately punished and rehabilitated. Titmuss warned a decade ago 'community care could too easily slide into no care at all' (cited in Downes and Rock 1998: 353). It is not enough for the government to release or sentence people to measures enforced with EM and hope that their

criminal behaviour will be eliminated. Rehabilitative support must be given to ensure future reductions in crime.

Conclusion

Crime can be viewed as the symptom of social problems. Apart from opportunist and petty thieving, most crime is committed because of other factors, e.g. poverty, drug habits etc. This is not something that affects only the offender, but society as whole. Crime and criminal justice are part of a bigger picture, one that incorporates and reflects the problems within a society. The government's desire to reduce incarceration for criminals must be backed by a policy of treatment and care for such individuals within society. COs used in conjunction with other community penalties should aim to eliminate the causes of crime and therefore promote rehabilitation. A minority of criminals do pose a physical threat to the public and therefore inevitably must be incarcerated. However prison is a very extreme way of punishing many crimes, and can severely embitter inmates rather than rehabilitate them into crime free lives.

The HDC and CO provide opportunities to reduce the prison population and treat individuals within society. However, these orders must be targeted effectively and combined with rehabilitation, which will give necessary contact with criminal justice agents who can offer support and help. The danger is that COs will be used in isolation. Prisoners will be released on HDC without necessary support and merely punished in the community without the advantage of the rehabilitative elements that monitoring can offer. To use EM merely as an add-on punitive bite to sentencing would be to abuse power vested in the courts. COs are a valuable addition to the sentencing menu, but sentencing philosophy must be clearly expressed by government.

HDCs and COs have, as far as limited research suggests, been successful in reducing prison numbers and maintaining public protection. As more research is carried out completion rates and recidivism statistics will indicate whether these orders have been targeted effectively. Unless there is a dramatic reversal of criminal justice policy it would appear that EM is here to stay. Anything that reduces the prison population must be welcomed. However, caution must always be maintained when governments employ new technological methods of punishing criminals, even if they are based in the community.

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Methodology

Choosing Electronic Tagging as a dissertation subject had been very challenging. As will be discussed later, availability of written material has been more of struggle than if I had chosen an established phenomenon. However the birth and continuing development of electronic tagging has been fascinating to study, and allows potential for hypothesising about applications and possible consequences of its assimilation into the Criminal Justice system. Tagging has grown rapidly, from a trial of a sentencing option to a way of enabling the monitoring of early release for prisoners. This continuing development has necessitated a constant search for materials from the moment of choosing the idea. A lot of material has been used hot off the presses from researchers at the Home Office. This has added to the challenge of writing a more interesting and original dissertation.

Availability of material

After an initial search on the University Library OPAC system, it was clear that there was a severe lack of published books on the subject of electronic monitoring (EM). The use of phrases such as 'curfew orders' 'electronic tagging', etc., only came up with three publications found. As the dissertation had to have a theoretical basis, I read material on general criminal justice, sentencing philosophy, etc. and then used specific electronic tagging material found in journals and web sites to relate theory to the specific topic chosen. There are many web-based articles on EM in the USA; obviously this is not directly useful for British applications, but some ideological and practical lessons can be learned and applied to the British situation. One book, which I found extremely useful, was Dick Whitfield's 'Tackling the Tag'. It was the most up-

to-date British book in the library and, as far as general searches found, the only book of its kind. The only problem with this text was that it was predominantly descriptive and contained little theoretical analysis. It did, however draw useful comparisons between Britain, the USA and a number of European countries in their use of EM. It also contained a number of useful texts in the bibliography, which I endeavoured to obtain. Unfortunately, this took a great deal of time and a fair amount of expense, as the majority of books were written and printed in the USA and had to be bought on the internet and imported. As theoretical analysis was the main aim of the dissertation, it was important to gain a thorough knowledge of the theoretical and ideological issues surrounding the use of EM. Because EM is a new phenomenon, some theoretical issues had to be pieced together using a great number of texts. Undoubtedly with the increased development and use of EM more theoretical books will be written, but this had not happened in time to assist my work. Sentencing philosophies were key in the analysis of the use of EM in this dissertation but this could only be done by expanding on general theories and relating them to specific EM uses.

Journal articles

By searching in the library and Internet a number of useful journal articles were found. These were more theoretically analytical, and therefore more useful for this dissertation. New articles were published throughout the course of dissertation, which were invaluable for obtaining both up to date statistics and particularly current government policy on the uses of EM.

Home Office publications

The majority of all statistical information contained and analysed in this dissertation was sourced from Home Office publications. The reports on the early trials of EM were invaluable research tools; although there were mainly descriptive, some theory was explored in the research documents and more importantly recommendations for the future were covered. In January I made an extremely useful contact with one of the authors of an up to date 'Research Findings' report. Miss Walters was very interested in the subject of my dissertation, as I appeared to be the first student to undertake the subject of EM as a final year project. She was extremely helpful in providing me with the latest statistics. She also informed me that in a couple of months there would be a number of new research findings published on the subject of EM: this was unfortunately going to be too late for me, as it would be published after my hand in date.

Hansard was also very useful for finding party policy discussions and debates on the implications of EM, also the debates surrounding its implementation and the 1991 Criminal Justice Act. Important statements by prominent politicians including the Home Secretary were found in Hansard. Material from Hansard was vital but extremely laborious and took many, many hours' work.

Contact with other organisations

In order to get a view of EM from as many criminal justice angles as possible, I contacted a number of related organisations, some of which were more helpful than others. I did consider requesting interviews with all of these organisations, but in the end decided against it. It would be very difficult to get an individual to commit their

organisation to a statement and opinion on EM. The thoughts and opinions of individuals were of little use for the general analysis that I wanted to achieve in my dissertation. Especially because of its infancy, individuals from organisations were unwilling to commit to solid opinions on the subject and had a 'wait and see' attitude, which would be fairly useless in terms of an ideological or theoretical discussion. I wrote to the following organisations very early in the planning of my dissertation (May 1999).

National Association for the Care and Resettlement of Offenders (NACRO) a generally helpful organisation with strong view on EM and good published material.

National association of Probation Officers (NAPO) Good up to date material was provided and gave me good ideas for theoretical analysis of community punishments in general, and specifically the effect this could have on the families of offenders.

Leicestershire Police were very unhelpful. Although I had found police policy on EM they maintained that they had nothing to do with EM; merely stated that they had very little information, and that what they did have they could not give me. I found more information on police involvement through the Metropolitan Police and Home Office web sites. My direct contact with Leicestershire Police Service did nothing for their public relations.

Amnesty International attempted to be helpful and put me in touch with 'Liberty' but neither organisation had any written opinions on the use of EM. However, thinking of both these organisations made me consider the ideological ramifications of using

EM, and the implications of 'taking prison into the home' and the effect this would have on family members, especially children.

Offender Tag Association; a very frustrating contact. Through other documents I found that the OTA had clear opinions of the use of EM, backed up by literature. I wrote to them 3 times and phoned 8 times, each time with promises that information would be immediately posted. Nothing ever arrived and if I were given another opportunity to write this dissertation I would be very interested to see what the OTA had published on EM. Along with the **Prison Reform Trust**, they are the only organisations directly interested in what experience the offender has of being monitored. This is essential to a theoretical discussion on the wider issues of monitoring, as rehabilitation is vitally important when considering the punishment of criminals. If offenders have negative views on EM, than it may be likely to affect its success rates. I felt that not receiving information from the OTA created the biggest gap in my research, and I am sure that in the future more findings will be published about offenders based opinions and issues.

Prison Reform Trust supplied a good amount of literature, and as use of the Home Detention Curfew (HDC) developed, it provided me with up to date statistical findings.

HMP Maidstone a good personal contact provided me with risk assessment forms, but could not give any other literature. These forms gave excellent evidence of the amount of multi agency involvement in preparing for the release of prisoners. Gave evidence of police involvement in preparing risk assessment.

Media Coverage

Press reports were very limited on the subject of EM. Those that did appear were fairly critical and negative. The BBC's coverage was also contradictory; stating on consecutive days that HDCs were both a total success and complete disaster. It would appear that EM was used to pass comment on Jack Straw's criminal justice policies and was not actually discussed in detail, merely used to illustrate potential confusion in Labour's crime policies.

Internet Searching

Internet material provided me with around 65% of my research basis. Material has to be used with discretion and careful elimination of badly written and extreme material. There is a great deal of 'conspiracy theory' influenced material on the subject of EM. The use and development of surveillance material attracts great debate amongst extremists who believe that state involvement in punishment and incarceration is the epitome of over zealous state control. Many of the arguments are valid, but have to be conceptualised carefully to the British situation. A high proportion of Internet sources were from the USA, as EM has been used there for a great deal longer. Internet searching, contradictory to common perception, can be extremely laborious and more difficult than traditional methods of searching in libraries, etc. Due to a severe lack of published material in this area, I was more or less forced to rely on Internet material. The most useful sites were the Home Office and Open Government sites. Political Party websites also provided excellent material on party criminal justice policy. There was a great deal of rationalisation of material, and a huge amount of highly biased, extreme and bizarre articles, but the internet could also act as a surprising gold mine:

e.g. articles such as speeches from eminent judges to police federations, which would be difficult to find in library based searching.

In future I believe that the Internet will become an invaluable academic tool. Sites such as www.opengovernment.com and www.homeoffice.co.uk provide excellent grounds for research and make up for the vast gallery of conspiratorial nonsense that fills the Internet. Choosing a more established, traditional study would have eliminated the great problems I had in obtaining research material, but I have viewed this as part of the challenge in undertaking a more original study. It is vital to analyse carefully innovations in criminal justice policy, especially when it involves punishing individuals.

Conclusion

I expect that in the very near future there will be a plethora of research and publications analysing and debating the implications of EM. It would have been extremely useful for my research to have material strongly grounded in the theoretical implications of EM in the wider spectrum of criminal justice. Recidivism studies are currently unavailable for those subject to EM, but would have enabled me to establish firmly whether it had been successful. It would also have been useful to have detailed debate on the effects of having a monitored offender in the house. One can only surmise whether it is difficult for families to adapt to the sometimes-strict curfew conditions applied to a family member. Some families may be pleased to have relatives at home but under curfew, whereas others may resent having to act as carer and warden for someone who may be unable to go shopping or run other errands for

themselves. This will only be established in further research, which is currently unavailable.

If I undertook this research again, it might be interesting to have more direct contact with criminal justice agencies and individuals affected by EM. Once the policies have been implemented for a greater period of time, agencies will have clear views, which could be used to establish an agency consensus on the use of EM and punishment, and its capabilities for rehabilitation. It would be of particular interest to compare the experience of someone in prison with that of someone sentenced to a curfew order (CO). Obviously prison is more punitive, but would individuals feel punished by a CO? Do wearers of electronic tags feel branded and stigmatised as criminals? Undoubtedly further research will be conducted into these issues, but unfortunately too late for inclusion in this dissertation. The additional bibliography illustrates the range of material that I have read to achieve a better understanding of my subject, but most of which were not cited directly in the text of the thesis.

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