

ELECTRONIC MONITORING : ASSESSMENT OF THE EXPERIMENTAL PHASE

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The present paper reports on a research on the initial phase of the implementation of electronic monitoring. The research project was conducted jointly by the Bureau des Études, de la Prospective et du Budget of the Corrections Department and the CESDIP.

The December 19, 1997 Act no. 97-1159 set up a new alternative to prison, electronic monitoring (EM, more familiarly known in France as the "*bracelet électronique*"). Since the technicalities of this measure are relatively complex and entail major changes in the work habits of the enforcement agencies, the executive office of the Corrections Department (*Direction de l'Administration Pénitentiaire*, or *DAP*) wished to test the new set-up on four pilot sites before extending it gradually to all French courts. The CESDIP was asked to evaluate the set-up, in collaboration with the *DAP* services.

The present research project aimed at observing the beginnings of EM. It looked at the characteristics of the population involved, as well as the conditions under which judges (those in charge of enforcement of sentences as well as the public prosecutors), social workers of the Corrections Department, managers and officers in the prisons involved had to operate, how they adjusted to the new measure and to the specific constraints its implementation placed upon them... Another aspect of the research dealt with the effects of the measure on their practices and inter-relations, and last, their assessment of it.

A pragmatic approach

The *DAP* scheme left each pilot site free to choose the programs and devices it viewed as most appropriate for monitoring, but also to allocate responsibilities among its staff members and to organise the job of placing and removing the bracelets, installing and recovering the receiver and responding to alarms.

The approach here was an empirical one, then, which proceeded by stages and relied on the practical, common-sense ability of field workers to discover the most adequate solutions. Those which corresponded best to the expectations of the various actors and, above all, to the resources that the institution was prepared to devote to the measure, were then to be retained for use as models to be copied during

the next, generalisation phase. Indeed, this first phase was experienced, on the sites, as a period in which the local actors, or some of them, could give free vent to their sense of innovation and their aptitude to galvanise partners in other concerned branches of the justice system. In some places implementation elicited real enthusiasm, unfortunately not necessarily shared by all of the local actors, but which does account for the positive assessment of the experiment. The offenders themselves occasionally shared this feeling of participating in an interesting innovation, and volunteered for it or interiorised it.

To a large extent, then, the results observed are due to the presence or absence, on the sites studied, of *innovators*, ready to invest themselves in the experiment and prepared to break with their routines or their professional culture... Depending on the site, these innovators might be judges, heads of correctional establishments, or directors of the Corrections Department Integration and Probation office (*Service Pénitentiaire d'Insertion et de Probation*, or *SPIP*), and in every case they had to find people in charge of the actual implementation of these measures who would relay their action. This was not self-evident, but some people, and in particular the supervising officers (chosen among prison officers) in charge of this measure, showed a true spirit of initiative.

Main statistical findings

Geographic distribution of tagging

During the period studied (October 1, 2000 to May 1, 2002), 235 taggings were ordered but only the 175 that were terminated during the period studied were included in the analysis¹. This is insufficient for any multiple criteria analysis, but sufficient to point to some trends. The distribution between sites was as follows: Agen, 45 cases ; Aix-en-Provence, 52 ; Grenoble, 33 ; and Lille, 45.

Characteristics	EM (n = 175)	Entering detention ²	Community-based measures ³
Women	8,6 %	5 %	10 %
Aliens	4 %	24 %	7 %
Average age	34.5 ans	29.4 ans	32.5 ans
Single	39 %	67 %	
Married/Cohabitation	45 %	25 %	
Dependent children	52 %	33 %	
Elementary education/illiterate	20	48	
Secondary/higher education	74	47	
Working	60		

Gender, age, nationality, family situation, educational level and working status of sentenced offenders

¹ As of February 1, 2003, 586 sentences had been pronounced for all of the 20 sites presently operational.

² Fichier National des Détenus (FND), year 2000.

³ Files started in 1998 (GUILLONNEAU M., 2000, Sanctions et mesures en milieu ouvert, *Cahiers de Démographie Pénitentiaire*, 8).

Implementation of the measure began rather slowly, then, because of the need for the people in charge of each site to define the organization and conditions of use of the device on their particular site. The figures rose from some thirty-odd EM per month during the first year to about sixty at the end of the observation period.

As shown in the above table, the gender, nationality and age distribution of offenders sentenced to EM is closer to the distribution of those sentenced to a penalty to be served in the community than of offenders entering prison. The former are more frequently married or cohabiting than the latter, more often have dependent children and are better educated. The majority of them are employed.

These overall findings lead to the conclusion that in the initial phase of the measure, beneficiaries of EM were selected among those sentenced offenders for whom the prognosis was best because of their social integration. It remains to be seen whether this state of affairs, habitual during the introductory phase of a measure, continues to apply in the future.

Penal characteristics of tagged convicts

EM is applicable to three categories of sentenced offenders: those sentenced to no more than one year, those who have less than one year of unsuspended imprisonment left to serve and those for whom the judge in charge of sentence-enforcement (JSE) prescribes EM as a probationary measure prior to parole, for a period of no more than one year. Over 8 out of 10 of those taggings terminated as of May 1, 2002 were in the first category – that is, offenders sentenced to short prison terms; close to 13% had less than one year left to serve, and EM was pronounced as a probationary measure prior to parole in only about 2% of cases.

In over half of cases (55%), the initiative for EM was taken by the JSE, whereas in all other cases it was the offender who decided, but never the public prosecutor.

27% of offenders were sentenced for thefts of some sort, and 17% for traffic violations including drunken driving. Next come offenders who have committed drug offenses (15%), assault and battery or personal violence (11%) and sexual violence (9%). 84% of offenders having terminated their placement had been tried for a single case.

Constraints imposed on tagged convicts

Tagged convicts are prohibited from leaving their home or some other place designated by the JSE, but in all of the cases studied, it was the offender's home that was chosen. In 8 out of 10 records studied, offenders were allowed to go out every day, including on week-ends. 18 % of those tagged were not allowed to go out on week-ends.

The schedules set by the JSE were necessarily in keeping with the obligations they set. The most frequent requisite (in 70 % of cases) was that the person work, and it was the only requisite in 8 out of 10 cases. Three out of four of these offenders already had a job. In the same vein, there is the obligation to take an in-service training or a temporary job to facilitate rehabilitation (7 % of cases). Other tagged individuals were only required to participate in their family life (6 %), take medical treatment (5 %) or more rarely, get an education or training (2 %). Naturally, these requisites may be cumulative... The most frequent combinations were: work while taking medical treatment (6 %) or while participating in family life (7.5 %).

In the case of the unemployed, the retired or those whose job situation was not known, 4 out of 10 were required to get a job, but there is no data indicating whether they actually did succeed in doing so or whether their efforts at

seeking employment were judged satisfactory.

The JSE also demanded the application of one or another of the restrictions listed in article 132-44 of the Criminal Code to about one fourth of people under EM, and of article 132-45 of the Criminal Code to an equivalent number⁴. The JSE can automatically, or on the request of the offender, and with the consent of the public prosecutor, modify the requisites for the enforcement of EM (article 723-1 of the code of criminal proceedings). At least one modification was made for 45 % of tagged offenders, usually so as to adjust their schedule to changes in working conditions, and occasionally to adapt it to the constraints of medical treatment or to family obligations.

The course and termination of the measure

In 57 % of the EM studied, the tagging period came to an end without any incident: that is, without the alarm having been set off by any proved absence. In 28 % of cases there had been one or two incidents, and in close to 15 % of cases, three or more incidents. In two unusual cases, there were a great many incidents (37 and 41), causing the measure to be revoked. On all four sites, 72 % of the 267 incidents recorded only resulted in a simple phone call between the offender and the supervising officer; in only 7 % of cases did the latter go to the location immediately and in 21 % of cases the convict was called in... The reason most frequently alleged for the incident was a simple delay (24 %), less frequently a professional or medical obligation (respectively 7 % and close to 6 %). In 7 % of incidents the tagged person denied having gone out and 6 % claimed to have confused their week-day and week-end leave schedules. In 4 cases, a suit was filed for escape.

⁴ Article 132-44 Crim. Code : offenders must conform to the following control measures :

- 1 – respond to a summons by the JSE or a designated probation officer ;
 - 2 – receive visits by the probation officer and provide the officer with any information or documents needed to ascertain his or her means of subsistence and the accomplishment of his or her obligations ;
 - 3 – inform the officer of any change of employment ;
 - 4 – inform the officer of any change of address or any travel plans for a duration exceeding two weeks, and report back ;
 - 5 – obtain prior authorization of the JSE before leaving the country, and for any change of employment or of place of residence if such a change may be an obstacle to the fulfillment of his or her obligations.
- Article 132-45 Crim. Code : the court in which the person was sentenced, or the JSE, can specifically prescribe one or several of the following obligations, requiring the offender to:
- 1 – be employed, go to school or take vocational training ;
 - 2 – reside in a prescribed place ;
 - 3 – undergo medical examination, treatment or other care, including hospital treatment ;
 - 4 – prove that he or she contributes to family upkeep or pays alimony on a regular basis ;
 - 5 – repair, partially or completely (in keeping with his or her financial ability), any damage caused by the offense committed, even in the absence of any decision on civil damages ;
 - 6 – prove that he or she pays the amounts due to the Public Revenue department attendant on his or her sentence, to the extent of his or her financial possibilities ;
 - 7 – refrain from driving some categories of vehicles defined in the motor vehicle code ;
 - 8 – refrain from working in the capacity in which the offense was committed ;
 - 9 – refrain from visiting any specially designated place ;
 - 10 – not engage in betting, especially in betting agencies ;
 - 11 – refrain from visiting drinking places ;
 - 12 – refrain from consorting with some other sentenced offenders, and especially those who committed or abetted the offense for which they were sentenced ;
 - 13 – refrain from contacting certain individuals, and especially the victim of the offense ;
 - 14 – refrain from detaining or carrying a weapon.

Furthermore, 62 % of tagged individuals were visited by an officer in charge of controlling them, independently of any incident.

Almost all (94 %) of taggings ended with release... Only eleven people had their EM withdrawn and served the remainder of their sentence in detention: seven for not respecting their obligations; three because of another sentence; and one at his request (he requested semi-liberty).

The average quantum of unsuspended prison sentences pronounced was 6.9 months : 50 % of the tagged had been sentenced to less than 5.5 months. However, the actual length of EM was 2.4 months, on the average: 22% were assigned to forced residence for less than one month, 51% for less than 2 months, while EM lasted 4 months or more for 16% of the tagged.

Some lessons drawn from this study

Can we generalise on the basis of the results ?

The results of this first phase are due, to a large extent, to the trials and errors of the different actors, in their attempts to sound out the limits of the new measure and to locate it in the range of alternatives to prison. They should therefore be viewed with caution. However, the degree to which the effects are dependent on the "experimental" nature of the situation is variable, and we may attempt to distinguish those effects which are possibly fleeting, and those which may be more sustained.

In this perspective, it is probable that the characteristics of the target population will change as the measure becomes more routine. This is indeed the area in which innovation is most evident, since the JSE were led to test EM for various types of offenders. Two different approaches may be identified, depending on the site, but these are difficult to quantify. One consists of taking risks, from the actors' viewpoint, so as to determine the limits of the measure, by assigning it to young delinquents, drug abusers or recidivists; the other, on the contrary, consists of selecting the beneficiaries very strictly, to give the operation the best chances of being successful. Like other innovations at other times, EM will have to find its place, and it will take some time, then, before its target-population can be found... Some more lasting conclusions can be drawn in the meanwhile, however :

- The first is that the measure will mostly be used for socially well integrated offenders, those with a job (although this is not a legal requisite) or prepared to seek employment actively; it will also be applied to ailing offenders needing constant care. On the other hand, the question of young people, and of those under age in particular, remains a moot one.

- The second point is that the measure will be used primarily to replace short prison terms, and much less so for offenders already in detention and detainees finishing their term, partly because of the lengthy procedural process prior to tagging.

As for local organization, the relative freedom left to the participants produced interesting local variations. Here again, in all probability the arrangements will tend toward greater homogeneity, but some requisites for success may already be adduced.

Redefinition of the role of supervising officer

In the system chosen, supervising officers were to volunteer for the job. The working method induced by this new assignment was quite different from the one for which the officers had initially been trained. It involved a complete

redefinition of the relationship with the convict, inasmuch as both protagonists emerged, so to speak, from the anonymity of the prison community, to perceive each other, henceforth, as individuals. The investigation shows that not all officers were prepared to cope with this change, and there was in fact widespread fear of intervening outside of the prison walls. For this reason, it is essential that the position of reference officer be given to those who request it and who demonstrate their readiness for interaction and their ability to listen and exchange, if this type of organization is pursued. A new role is in gestation, then, for reference supervisors: one of a link, bridging the gap between sentences served in the community and those served in the correctional environment.

The previous remark leads us to emphasise the importance of continuity in the follow-up of tagged convicts by the reference officers throughout enforcement of the measure (ranging from the preliminary investigation of the home to the installing of the material, the technical maintenance and control) and the importance of coordination and satisfactory communication between the reference officers and the social worker from the SPIP. These are the conditions under which a relationship based on mutual trust may be developed between the convict and the people in charge of his or her follow-up.

Electronic monitoring and social accompaniment

The early period of use of electronic monitoring has already shown that the "positive" character of the measure, proclaimed by various actors and by the offenders themselves, resides primarily in the social accompaniment and the personal commitment of the actors. This investment, involving considerable supervisory resources (one reference officer for twenty tagged convicts) and the means for consistent social and educational attention, was made possible to a large extent by the personal commitment of the people involved, all aware that they were participating in an innovative measure.

De facto, and perhaps in an unexpected manner, EM led the people in charge of the tagged convicts to work more intensely than for other community-based measures. This was not caused so much by the amount of surveillance required for tagged convicts as by the fact that implementation of EM requires a series of preliminary actions which oblige the actors to involve themselves more completely. This is particularly true of the preliminary investigation, which obliges social workers to make an in-depth study of the situation of both the offender and his or her family, to meet the family and obtain its consent. It also obliges them to thoroughly analyse the everyday life of the future tagged individuals, so as to adjust their schedule to their obligations or needs.

The interviews show that given their usual work load and the number of cases they followed, the social workers attached to the Corrections Department did not tend to work as hard on the other offenders with community-based sentences, for whom their attitude was essentially reactive. The proactivity required by EM therefore points up the insufficient resources for community-based measures when compared with those available in other countries that have adopted this measure. The extra work load induced by EM was absorbed by the services involved because of the relatively small number of cases and the good will of workers who were attracted by the innovation. Now, the Ministry of Justice foresees a considerable extension of EM, since some 3,000 convicts are expected to be tagged by five years from now. In all probability, if this accrued

use of EM takes place without any additional resources, it will produce some problems within the SPIP – but also for the correctional facilities involved.

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The French findings do not seem very different from the experiences of other countries, in some respects. As in the other countries, the benefits expected of EM – limited growth, or even decline, of the prison population; reduced penal costs ; curbing recidivism – will require precise evaluation. It is also important to prepare for the arrival on the market of second-generation devices, which will not simply signal the absence of a person at a given time and place, but should also enable constant tracking of the person: this raises more far-reaching ethi-

cal and political issues. Nonetheless, despite these uncertainties, EM constitutes a refinement, completing the range of mechanisms for the individualization of sentences and as such it may be expected to settle into its own particular position in the "Swiss army knife" of rehabilitation measures.

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