

Home Detention: restrictions without rationale?

Una Padel examines the repercussions of sentences that rely on the technology of electronic monitoring.

Although electronic monitoring (EM) was initially proposed for use in the criminal justice system in the UK in the early 1980s, its introduction across England and Wales is as recent as the start of 1999. Since then it has been used as a means of imposing curfews on prisoners released early from jail and on offenders sentenced to curfew orders. From January 1999 to 30th September 2004, 10,1918 prisoners have been released up to 4.5 months early on curfews which usually last from 7pm to 7am, and 57,098 people have been sentenced to curfew orders which restrict their ability to leave their homes for up to 12 hours per day. Curfews can be imposed on juveniles as young as 10 years old, and they are a central component of the Intensive Surveillance and Support Programme (ISSP) the most intensive community sentence available for young people. These programmes, now being trialled for young adults as the Intensive Control and Change Programme (ICCP), also involve active surveillance and supervision during the non-curfew hours and a

- imprisonment for offenders and their families.
- Reduction in the social costs associated with imprisonment as offenders can continue to support their families and pay taxes.
- Reduction in the family breakdown associated with imprisonment.
- Disruption of criminal patterns of behaviour and the development of a more structured, less chaotic lifestyle.

When EM was introduced nationally in 1999 the prison population was just under 65,000. Within the first two months the Home Detention Curfew had resulted in a reduction of 600, but since then the prison population has risen until, on 31st December 2004 there were 73,214 prisoners in custody and 3,363 on HDC supervision.

This rise in the prison population has taken place despite the availability of HDC and curfew orders. Over that time prison sentences have been increasing in length and it is possible that the impact of HDC is

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range of activities. EM is also used to support the bail curfews. In 2005, when the new Community Order takes the place of the panoply of community sentences which currently exist, electronically monitored curfews will be among the range of options sentencers will be able to combine to create an order, and this may well lead to an increase in the use of such monitoring.

When the idea of electronic monitoring was first mooted many in the penal reform field felt that the measure involved unwarranted intrusion into the privacy and civil liberties of offenders. Such arguments may sound very old-fashioned these days when restriction, punishment and enforcement seem to be the dominant characteristics required by a Government whose criminal justice policy is driven by a desire to court public confidence by being tough on crime. Electronic monitoring now has an established place in the sentencing structure but what is it really for?

A number of different purposes for electronic monitoring have been put forward:

- Reduction in the use of imprisonment by offering a punitive community sentence.
- Improvement in public safety because EM has a partially incapacitating effect.
- Reduction in the stigma associated with

being neutralised because sentencers are aware of the likelihood that offenders will be released earlier. Curfew orders are imposed for a wide range of offences and it is difficult to know the extent to which they are being used in place of custody. The Home Office evaluation of the first two years of the curfew order (Walter 2002) concludes that between one fifth and one quarter of curfew orders were imposed on offenders who would otherwise have been committed to custody. Just over 6% were subsequently sent to prison for breaching the order. Roberts (2004) suggests that one of the reasons curfew orders have not been successful in reducing the use of imprisonment in England and Wales is that it is too modest in its potential requirements, with a maximum limit of six months for adults and a minimum curfew of two hours per day.

EM obviously does restrict offenders' freedom to come and go as they please, but how punitive do offenders and their families find this? A Home Office evaluation of the Home Detention Curfew, published in 2000, interviewed prisoners released on HDC and their families. Given that these offenders would have been in prison were it not for the opportunity of early release on HDC it is hardly surprising that 97% viewed it positively. The limits imposed by the curfew created problems for those searching for a

job, and offenders in work found that the curfew meant that shift patterns and overtime could be difficult. Families too were generally pleased to have their prisoner home, but 19% of the sample said the curfew hours were inconvenient for other family members and 10% said there were increased tensions within the household. People on HDC who lived alone found the curfew isolating and boring. The greatest problems affected those whose relationships broke down during the period of the HDC or who had to leave their accommodation for some other reason. If no suitable accommodation could be found quickly they were recalled to prison.

Gainey and Paine (2000) analysed the experiences of 49 offenders subject to EM in the US. Once again they found that the majority viewed it as positive in comparison with prison, but they also reported negative effects including the impact on privacy. They spoke of not being able to turn the phone off, felt shamed by having to tell family and friends why they had to remain home between certain hours, and having to wear the tag. Disruption of the household, in terms of phone use and checking calls at night, also disturbed family life.

The evaluation of the national roll-out of curfew orders (Walter 2002) found that offenders perceived the curfew orders as a genuine restriction on their liberty and a punitive experience. They viewed the orders as a last chance before prison.

It is hardly surprising that, when used as a means of attaining early release from prison, both offenders and their families view electronic monitoring in a generally positive light, but it is clear from all the evaluations that the requirements can be onerous and can have a negative impact on other family members and on relationships within the home. These relationships are often under great strain already as a result of the crime, conviction and prison sentence. It has been suggested that EM both helps offenders maintain and strengthen their relationships, but can also contribute to relationship breakdown and domestic violence.

So what is the impact of electronic monitoring in terms of reoffending and public protection? The evidence, both nationally and internationally, is that reoffending rates for offenders tagged on HDC or curfew orders are not significantly different from offenders sentenced to other community sentences or prison.

EM does not really incapacitate – offenders are free during their non-curfew time and can offend then if they choose to. There are also many offences which can be committed in the comfort of one's own home, including domestic violence. There have been anecdotal suggestions that drug dealers under curfew switch their operations from other locations to their homes, putting other family members, and particularly children, at risk.

Proponents of electronic monitoring argue that the routine established – being home between certain hours – is in itself rehabilitative. They argue that it provides the curfewee with an unequivocal reason

to stay home and avoid the temptations which might exist if they were to go out with friends who might offend. They also suggest that the curfew can break behaviour patterns and lead to the establishment of a new routine in an otherwise chaotic life. There is no evidence for this and it seems unlikely that an externally imposed curfew would be internalised to any useful extent after the period of EM is at an end. Although EM is used in conjunction with programmes of activities including employment skills training and contact with a probation officer in other countries (such as Holland), in England and Wales the greatest use has been as a stand-alone measure for the early release of prisoners. More recently it has formed part of the Intensive Supervision and Surveillance Programme (ISSP) for young offenders and the Intensive Control and Change Programme (ICCP) for young adults. Both of these programmes are high intensity sentences designed for people who might otherwise be sent to custody. In terms of community sentences it is possible that curfews will be used more extensively in combination with other measures when the new Community Order comes into being this year, but even so it is difficult to see how the curfew element could be described as rehabilitative.

Electronic monitoring as used in England and Wales diverts few people from prison, enables some to be released earlier from sentences which are far longer than those they would have received ten years ago, and has no impact on re-offending rates. It also has none of the other positive outcomes in terms of skills development, tackling criminogenic factors or restoration/repair of damage caused by the crime that other community penalties offer. Unfashionable as they may be the arguments about the civil liberties of offenders and their families voiced when EM was first proposed in the early 1980s still hold true.

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