

Experiencing electronic monitoring

Delphine Vanhaelemeesch reports on the Belgian model

In Belgium, EM-supervision was extended to the national level in 2000 and received an explicit legal base in the 17 May 2006 Act on the External Legal Position of Prisoners. Over time there has been a slow but steady increase in the number of people being subjected to EM in Belgium.

Belgian law defines electronic monitoring (EM) as a form of sentencing, in the course of which an offender may spend all or part of his or her prison sentence outside prison. The offender has to comply with a predetermined time schedule and with specific probation conditions. Compliance is monitored using radio frequency electronic ankle bracelets. When they move out of the range of the transceivers in their homes, the National Centre of Electronic Monitoring (NCEM – run under the auspices of the Prison Service) is alerted. Recently, voice recognition technology has replaced bracelet-based EM for offenders sentenced up to eight months of imprisonment and in 2014 EM with GPS tracking will be introduced as an alternative to pre-trial detention.

EM is not yet a stand-alone sanction that can be administered by a judicial authority. Instead, EM is, after a conditional custodial sentence has been imposed, used as an alternative for imprisonment (the ‘front door’ approach), as well as a part of an early release agreement after the offender has been imprisoned for a certain period of time (the ‘back door’ approach). The length of the imposed prison sentence determines which legal framework is applicable. For prison sentences up to three years, offenders have to present themselves at the prison administration and request EM of the prison director. If an offender is sentenced to more than three

years, he/she can make a written request for EM to the implementation court six months prior to the first possible conditional release date. Any offence, including violent offences, can qualify for EM.

Initially, EM practice in Belgium was characterised by a strong emphasis on individualised, intensive supervision, with both technical and social aspects. Trained social workers, employed by the NCEM, have been integral to the operation of the ‘Belgian model’. While being understood as a punishment, EM-supervision was intended to foster the reintegration of the offender into the community: control and guidance were to be balanced. However, in an attempt to ease prison overcrowding and to counter perceptions of leniency towards offenders, EM for those serving a prison sentence up to three years has recently been changed, following a new ministerial instruction in March 2013. In this ministerial instruction, the aims of sentencing shifted from the old ‘penal welfare’ approach of understanding and reforming individual offenders (old penology), to one that focuses on public protection and risk management (new penology). As a result, key elements of the ‘Belgian EM model’ – such as the social enquiry report, co-residents’ consent and frequent contact with ‘justice assistants’ (the equivalent of social workers or probation officers in other jurisdictions), are now only provided for two specific groups of offenders (comprising 33 per cent of the total) – offenders who were sentenced to more than three years imprisonment and offenders who were sentenced up to three years imprisonment *if* special conditions are present. For the remaining 66 per cent of offenders serving periods of under

three years on EM, the focus has evolved from a balance between guidance and control to a mere focus on control and an expectation of self-reliance in their daily activities. This offender group only gets contact with a justice assistant when something goes wrong.

On the receiving end

My research explicitly aims to study the experience of convicted offenders and their co-residents who have experienced EM. Many still assume that EM generates less harmful side effects than imprisonment and has a more ‘humane’ character. These assumptions are mainly based on the beliefs of those applying EM; empirical evidence on the experience of offenders who have undergone EM has been less readily available. It is surely arguable, however, that punishment and leniency can only be properly understood if the experience of those undergoing the sanction is also considered.

To understand the experience of EM, a qualitative design was set up based on ‘experience research’, which explores the feelings, experiences and impressions of respondents. The choice of this design follows the academic approach that studies criminal justice interventions not only to reveal how they might reduce re-offending or harm (‘what works’), but also to find out how they affect ‘quality of life’ among people subjected to these interventions. Seventy-three offenders and 30 co-residents, living with 30 different persons under EM, agreed to be interviewed (a response rate of 75 per cent). During face-to-face semi-structured interviews at their home, they were asked (separately) about their experiences of EM, both positive and negative. When possible, their EM experience was compared to accounts of their prior prison experience. The interviews took place in the period before the procedural change for prison sentences up to three years and at varying stages of the order. The results of the present study can be used to compare the experiences of offenders under EM and their

co-residents on the one hand with the new focus of policy-makers on control on the other hand.

Responses

When asked how they experience EM, the majority of the respondents, both offenders and co-residents, generally reported good experiences. This 'experience research' shows that EM is experienced as being much better than prison, although not in all aspects and not for every respondent. Offenders mentioned positive aspects, such as the freedom of choice, the possibility to work, and being at home with family and friends. This sense of union dominated the experience of the co-residents. Although co-residents, for example, believed that they were punished indirectly, that burden did not surpass the benefit(s) of being united (or re-united) with the offender.

Although for most respondents the disadvantages did not outweigh the advantages when compared to a prison sentence, this research found that EM had a punitive impact on the lives of offenders and their co-residents and that EM was experienced as a valid and constructive sanction: EM is not simply experienced as a 'soft' alternative to imprisonment. Offenders also talked about negative aspects, such as the psychological impact and the fact that EM, essentially, controls or limits freedom. Electronic monitoring puts considerable psychological pressure (stress, fear, temptation) on people, weighs heavily on social life and can cause stigmatisation of those involved. The life of co-residents is also affected by the presence of EM, even though they are not, in a formal sense, the ones being punished.

Relationships

Co-residents are not isolated from EM. Every day they are confronted with EM and the influence of this measure on the offender and they are involved in many of the conditions imposed to the offender, which leads to feelings of punishment and control in the co-residents. The daily life of some co-residents is greatly disturbed by providing

accommodation to an offender. Activities are often adapted to the time schedule of the offender subjected to EM. For instance, they may feel uncomfortable going out to enjoy themselves, leaving the offender alone at home, so they too stay in. Since they are so often together, tensions can arise, which influence their relationship. EM clearly diminishes their social activities: they feel more limited in their way of life.

Next to the influence on their life, our research revealed that co-residents often take on extra roles, while their original role (as a partner, for example) is reduced. They become assistants, quasi-social workers and controllers, all in order to enable the EM-sanction to be successfully completed. As assistants they take on extra tasks and responsibilities (like shopping alone, driving the kids and carrying out administrative work) to unburden the person under EM and to overcome the offender's limited participation in society and daily life. Acting like social workers, they motivate (with verbal support) and enable (with physical support) the person being monitored, when problems arise. Finally, they adopt the role of controller when they admonish the person under EM not to take risks (for example, drinking too much alcohol, and contact with former detainees) and remind them about their time schedule. Co-residents keep a meticulous eye on their watch, and contact the offender if they are concerned about lateness. They do so out of a feeling of responsibility, out of a wish for EM to succeed and also because they feel there is a lack of immediate judicial control.

Overall, it is noteworthy that the experience of the respondents with EM improved when individualisation, information-giving and support increased, which is consistent with research into effective social work with offenders. In addition, EM stimulated the offenders under EM to keep away from delinquent friends, to spend more time at home with their family, or to undertake treatment. These examples show that an individualised EM-programme

can be a significant means of achieving reintegration.

Given both penal and financial pressures on governments, and ongoing technological developments, it seems clear EM-measures will have a pretty certain future in the criminal justice system. Initially, Belgian motivation to use EM was inspired by a sense of it as a meaningful alternative to imprisonment when applied to the appropriate person and always in combination with adequate professional support from justice assistants. This approach, however, has almost completely disappeared. Nowadays, EM policy is directed towards reducing prison overcrowding and to counter perceptions of offenders being treated with impunity. Technology alone is being looked to for control. Offenders and their co-residents now receive little supervision or support, resulting in a cold, standardised supervision system in which families have to cope with the stresses and strains on their own.

My study shows that EM has significant consequences and responsibilities for those sanctioned by criminal justice and their co-residents, and that individualisation, information-giving and support is vital to cope with these. These results suggest that the initial 'Belgian model', with its emphasis on individualisation and assistance, was indeed a viable and defensible use of EM. Regrettably, this model is crumbling. As a result, EM is becoming a cold, surveillant intervention in which the government distantly watches, rather than actively assists, those whom it has chosen to punish. ■

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Reference

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