

Designed for men, but also worn by women

Ella Holdsworth and Anthea Hucklesby point at the gender gap when coping with electronic monitoring

Women offenders differ from male offenders in a number of respects. Overall they are less risky than men. They commit fewer, less serious offences and are less likely to be reconvicted. They also experience punishment differently to men and have different and more complex needs. Women's living arrangements also differ, with a higher proportion of women having caring responsibilities and being lone parents. Some of the differences between men and women have been acknowledged in the criminal justice system: there are women-only prisons and some women-only probation provision. However, it has been argued consistently that women are mostly required to fit into a system designed for the men who comprise the vast majority of the convicted population. A stream of research and official reports have recommended significant reductions in the use of custody for women, and different approaches for dealing with them, but there has been limited success in implementing them.

Use of curfews

One method of keeping women out of prison, whether at the pre-trial, sentencing or post conviction, is electronic monitoring (EM). EM-curfew, when they act as an alternative to imprisonment (and we know that they do not always do so), allow women to continue to look after children and other relatives as well as working. As such, they may be an attractive option for sentencers to use with women. Curfews have fewer of the drawbacks that limit the use of other community order

requirements (such as community payback), because no special arrangements need to be made to look after children, and no financial obligations are involved. Indeed, there is some evidence that women are more likely to be tagged than men. Although published statistics are scarce, a greater proportion of women are seemingly released on Home Detention Curfew (early release from prison under EM) (Ministry of Justice, 2013).

Chivalrous sentencers and prison governors may view some low-risk women offenders, at least, as ideal candidates for EM curfews precisely because they require them to stay in the home, the traditional domain of the female, and the realm in which many of their responsibilities as wives and mothers are conducted. Our research certainly hints that if women are seen to personify a domestic ideal, they could be sentenced in this way. One of us (Holdsworth) interviewed 31 women at the end of a period of EM as part of a community order. The sample included a group of older women (between 30 and 60 years old) who were first time offenders and who were (mostly) charged with benefit fraud). This group did not identify themselves as offenders and usually portrayed their offence as a one-off event, never to be repeated. They all had conventional family lives either with children living with them or adult children living nearby. For this group, EM probably was the more favourable option, in terms of available sentences, because it disrupted their lives the least. Indeed, all these women said that the EM curfew had made no difference to

their daily routines because they did not go out at night in any case. Sentencers may be using EM-curfew on women, because they undoubtedly constitute a punishment but (helpfully) without the practical complications or additional obligations (such as attending supervision or unpaid work sessions) associated with other forms of community punishment. Further research would be needed to prove this conclusively.

There is, however, a potential downside to using EM in this way. It may well result in net-widening (Patel and Stanley, 2008) by up-tariffing less risky women. In theory at least, EM is a high tariff punishment. If it is used instead of less restrictive punishments such as fines simply because it has least immediate impact on the social lives of women it may later result in women being subject to more severe punishment that they deserve.

Different impacts

Electronic monitoring is a relatively new form of punishment, not used significantly until this century. Despite arriving 'well after feminism', no account was taken of the different ways in which it impacts upon men and women. In theory, EM is a flexible punishment which could easily be tailored to a particular person's circumstances. One relevant example might be that of a prolific woman shoplifter with school aged children, who does not work, who could be curfewed during the school day, thereby allowing her to carry out her parenting duties as normal but significantly curtailing her opportunities to go shopping.

However, EM curfew hours are mostly set in routine and unimaginative ways. They are nearly always imposed for between 11 and 12 hours a day overnight, sometime between six o'clock in the evening and eight in the morning (Hucklesby, 2008). The key variation is in the duration of the community order, i.e. how many months it is imposed for, which is related to the nature and seriousness of the offence rather than offenders' circumstances. How a sentence is implemented is usually the responsibility of others, and for

this reason sentencers have been slow to grasp that they can and should take account of individuals' circumstances when deciding not only the length of community orders but also the daily curfew hours. The authors of pre-sentence or fast-delivery reports also have a responsibility to indicate the most appropriate hours for curfews to be imposed in particular cases. Increasing the creative ways in which EM can be used would undoubtedly make it more responsive to women's (and men's) circumstances.

Inflexibility

Once EM is imposed by the courts it becomes an inflexible punishment which treats all those monitored in the same way. This includes not only the technology, but the rules accompanying its use, which are set out in the government contracts with which the private EM providers have to comply. For example, offenders are required to stay within the confines of their accommodation which does not usually include the garden of the property. The EM equipment is sensitive and will immediately show when the boundaries of the property have been breached. It makes no distinction between putting the bins out and leaving the property to commit an offence. The only 'clue' that registers in the monitoring centre is the duration of the absence from the property, and some flexibility is built into the system to accommodate short absences (HMIP, 2008). The inflexible operating system may provide an explanation for why women's compliance rates are lower than men's (Hucklesby, 2009). Female offenders, we have found, are more likely to suggest that non-compliance results from their domestic responsibilities. Some of the examples resulted from poor planning such as needing to go to the shop to buy supplies such as nappies whilst others were unavoidable including fetching children who were playing in the streets and refusing to come in, and rescuing children who had fallen over in the garden. Lone parents, of which a significant proportion are

women, have no-one else to call on to run errands and this is likely to result in higher breach rates for this group.

Even though some explanations provided by female offenders for non-compliance are likely to be viewed as acceptable by a court, private EM companies have little discretion when deciding whether to formally breach offenders. The use of discretion is limited to deciding whether or not to take action following a violation and whether the reasons put forward by tagged individuals are acceptable. Private EM companies are more likely to pass on the responsibility for deciding such matters to the courts (in the case of stand-alone curfews) and to probation staff (when EM is combined with other community order requirements) given that it is in their interests to work to the letter of government contracts, because of the financial penalties imposed if they do not abide by them, as well as possible media scandal.

Women's specific needs have not really been considered in relation to the EM equipment itself. Tagged individuals are required to wear a personal identification device (PID) on their ankle at all times during their sentence; it resembles a large black plastic watch. Any attempt to remove it registers a violation at the monitoring centre. The tags cause concern for all offenders in relation to the discomfort of wearing them, and also their visibility when participating in sports such as swimming (Hucklesby, 2008). However, the issues are more pronounced for women. The equipment and fitting requirements are designed for men. For example, the strap has some built in flexibility but it has to be fitted leaving only limited room for fluctuations in the size of offenders' legs, thus ensuring that the tag cannot be slipped off. The stigma and embarrassment that some offenders (men and women) feel when wearing the tag may be heightened for women and may have greater mental and emotion impact. Women are much more likely than men to have to change the type of clothes they wear to make the tag

more comfortable (wearing shoes not boots) or to hide it (trousers not skirts). Additionally, women in our study suggested that the tags were particularly embarrassing to wear because for them they signified 'male punishment' and portrayed them as more serious offenders than they believed themselves to be.

In conclusion, the implementation and operation of EM provides yet another example of women's needs and experiences being ignored by a criminal justice system designed for men. Electronic monitoring is a promising mechanism for reducing the female prison population but its legitimacy is threatened (and not only by it being operated by the private sector). The specific needs of women must be considered to ensure that it is an appropriate and proportionate punishment and that the use of EM does not result in significant net-widening of women rather than reducing the numbers sent to prison. ■

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