

# Electronic Monitoring and Family Life

Mike Nellis reviews the progress of 'tagging', the community penalty administered at home.

Electronically monitored curfew orders (a community penalty) and electronically monitored home detention curfew (HDC, early release for short sentence prisoners) became nationally available in 1999, the former after a series of pilots beginning in 1996, and a brief bail experiment in 1989/1990. The advent of electronic monitoring technology made the wider use of curfew orders possible. These had been legally available since 1982 but little used because they were hard to monitor and enforce, and because the Probation Service was ideologically opposed to the imposition of night-time restrictions on offenders, other than in hostels. This stance, whilst grounded in important principles, nonetheless ignored Home Office research which showed that significant proportions of parents welcomed state-imposed curfews on the grounds that they would augment their authority to insist that kids were indoors by a certain time (Riley and Shaw 1985).

The Probation Service initially resisted electronic monitoring (EM) technology as unlikely to be of use with offenders who had chaotic lifestyles, and as a form of Orwellian surveillance incompatible with humanistic ideals. As a result, the government entrusted EM's implementation to the private security industry.

Three companies are currently involved, and, in respect of probation, EM in Britain has been a parallel rather than an integrated development, although some offenders can experience both probation supervision and tagging simultaneously. Most of the Home Office's research into the EM pilots explored the implication of its use for the families of offenders — although in no great depth — and concluded that such tensions as arose were not great enough to impede its further development (e.g. Mair and Mortimer 1996).

New Labour has been keen on a 'national bedtime' (Harry Fletcher's immortal phrase) as part of its youth crime reduction strategy, but has been repeatedly thwarted in attempts to achieve it. It is perhaps of significance that the government only introduced individualised curfew orders for younger offenders after the marked failure of police and local authorities to make use of the discretionary area-based curfews it had made available in 1998. More recently EM has been introduced as a component in Intensive Supervision and Surveillance Programmes (ISSP) for persistent young offenders. Apart from its continuing use as a stand-alone penalty its likely future development will be as one element in the multi-component seamless sentences proposed in *Justice for All*.

Oxford University's evaluation of ISSP is still awaited, but anecdotal evidence suggests that the EM

element has been problematic. The volatility of some young offenders' families — plus their own reluctance to lead home-centred lives — may limit the feasibility of using EM constructively with this age group. Families in general have always figured in discussions of EM. Its supporters have always emphasised the way in which it can help keep families together, and given the difficulties faced by serving prisoners' families, that claim is not to be ignored. Critics have occasionally emphasised the way in which the 'enforced togetherness' entailed by tagging may exacerbate domestic tensions, perhaps even domestic violence. The promotional material relating to EM is rather cursory when it comes to families, although all the explanatory videos produced by the Home Office and monitoring companies address the theme of families, particularly in relation to young offenders. Family matters are among the reasons which permit absences during curfew hours — attending a one-off or emergency medical appointment for oneself or one's child, or the marriage or funeral of a close relation.

## Offenders' perspectives

Leonie Pepper (2000), a trainee probation officer, undertook an early study of eight offenders released on HDC, six men and two women. The individual offender's personal perspective of the experience was frequently entwined with their perception of other householders affected by it. Her respondents repeatedly expressed concern at the disruption caused to other family members, either by frequent telephone calls or related noises — "The phone line kept bleeping every four hours throughout the night" — or visits from the monitoring companies. Monitoring staff were usually friendly but could call at unsocial hours to install the equipment. Sometimes disruption was related to this: "We had to move all the furniture round and take the headboard off the bed to get the equipment in and fit the phone line. This was in my parents bedroom".

Shame about wearing the tag — indicated mostly by offenders wearing clothes that hid the anklet, and not telling others they were subject to it — could reflect from the individual onto the family. One family covered up the monitoring unit attached to the telephone with a doily, in the hope that visitors would not ask questions. One respondent, asked if they minded the neighbours knowing they were tagged, replied: "Yes, I am concerned, not for myself, but for my mother. It's her house". There may even be seasonal, weather-related variations in how offenders experience tagging — "Well, it was winter, so it was okay. I would have been concerned if I had to wear shorts or go swimming". There is clearly a sense in which watching others do things that you

cannot do is irksome and frustrating — “The wife goes out and I can’t - it does my head in” or “Seeing everyone go out is hard. You can’t go out of your front door - but if I was in prison I’d have no freedom anyway, would I?”

The favourable comparison of EM with prison was made by six of the respondents, some of whom did not even characterise EM as a punishment — “Punishment is when you are in your cell, tagging is nothing”; “It hasn’t felt like a punishment”; “It was an opportunity not a punishment”. In the main being back with family, at least from the offenders’ point of view, was a good thing, and in Pepper’s study there was no discernible increase in domestic tension. Simply because it gets loved ones out of prison there are rather obviously going to be as many positive comments as negative ones, typified by — “Mum and Dad were pretty good with it, they were just glad to get me back”.

## Family support

Premier’s publicity at one time contained a woman’s flippant request to the monitoring company to leave her partner’s tag on for longer than the required period, as “It’s rather nice having him at home”. In Britain, the civil liberties argument that EM turns an offender’s home into ‘jailspace’ was lost before it started. No-one was worried enough – even liberals have been reluctantly won over by the argument that the urgent need to reduce real prison use warrants toughened community penalties of some sort. EM — whether achieved by the existing tagging technology, or by voice verification (already in use) or satellite tracking (coming soon) — seems certain to play a part in this, and there are aspects of what it can achieve with which no sensible probation officer can quarrel. No objections can possibly be derived from its impact on the family. Theorists of community penalties have satisfied themselves that third parties (in this instance families and other householders) can legitimately be involved in them.

Debate on restorative justice has actually re-emphasised the importance of enlisting family support in preventing crime and repairing harm. No unequivocal evidence has emerged that tagging actually increases domestic victimisation — Dodgson *et al* (2001) suggest that in the main family relationships are unaffected during HDC, or even improve. The precise pains of EM will vary enormously depending on the quality of the home or family in which time is served (Payne and Gainey 1998), but so long as this unavoidable, intrinsic unfairness can be lived with, the future of EM seems assured. But what sort of future will this be? It is one of the paradoxes of the development of electronic monitoring in Britain that it has not been seen in the national press, or in popular culture, as the draconian measure that, at the outset, both its strongest supporters and its severest critics claimed it to be (Nellis 2003).

The principle of confining people to their own homes for so many hours per day (with or without their families) has simply not registered with the wider public as a particularly onerous penalty. Why this is so warrants reflection — and eventually, empirical research. Various reasons suggest themselves. Any penalty that requires trusting an offender not to offend (rather than physically preventing them from doing so) is liable to be seen as ‘soft’ in public protection terms. Any penalty that allows an offender to remain with their families, in the assumed ‘comfort’ of their own home, (when they might otherwise have been in prison) is likely to be seen as lenient. Beyond this, ‘tagging’, the colloquial term that has been used for EM in this

country, lacks the controlling connotations of ‘house arrest’ or ‘home confinement’ used elsewhere and may inadvertently have limited its credibility as a community punishment. More speculatively, the level of public alarm about state surveillance may always have been a great deal less among the British than Orwell and modern civil liberty organisations hoped it might be, especially in respect of lawbreakers. More speculatively still, it may simply be that the essence of EM — pinpointing and locatability — has become a relatively normal experience in contemporary society, as a result of mobile phones, electronic data trails and CCTV, something which we accept as a convenience rather than fear as an oppression.

In a world where all of us can be pinpointed to a greater or lesser degree, the state’s specific ability to pinpoint offenders hardly seems like a massive exercise of power, or an unwarranted intrusion. One possible consequence of the ‘revaluing’ of EM’s place in the tariff may be its redefinition as an intrinsically minor penalty, particularly in its stand-alone form. One probation area at least, has raised the possibility of using stand-alone curfew orders for a period of weeks or months as a viable alternative to fines for poor offenders, and magistrates seem interested. Such a strategy would certainly increase the numbers of curfew orders, increasing the numbers of families involved. Critics of this development will almost inevitably cry ‘net-widening’ (using tough penalties on low risk offenders), but this begs the question of whether stand-alone curfews were properly conceived as tough penalties in the first place. If this shift towards the lower end of the tariff (the bigger market) does indeed emerge (it is early days yet, but EM in practice has never been high tariff) it is best seen as a further increase in the automation of criminal justice processes, and as an enhancement of the power of the private sector.

The humanistic ideals of the Probation Service will struggle to survive in such a world, although if EM were incorporated within it, rather than left in the private sector, there might be slightly greater grounds for optimism

*Mike Nellis is Senior Lecturer in Criminal Justice Studies, University of Birmingham.*

## References:

- Dodgson, K. *et al* (2001), *Electronic Monitoring of Released Prisoners; an evaluation of the Home Detention Curfew Scheme*. Home Office Research Study 222. London: Home Office
- Mair, G. and Mortimer, E. (1996), *Curfew Orders with Electronic Monitoring*. Research Study 163. London: Home Office.
- Nellis, M. (2003) News Media, Popular Culture and the Electronic Monitoring of Offenders in England and Wales. *The Howard Journal* 42(1) pp1-31
- Payne, B. K. and Gainey, R. R. (1998), A Qualitative Assessment of the Pains Experienced on Electronic Monitoring. *International Journal of Offender Therapy and Comparative Criminology*. 42(2) 149-163
- Pepper, L. (2000), *Home Detention Curfew: The Offender Perspective*. Unpublished BA Community Justice Dissertation. Department of Social Policy Social Work, University of Birmingham.
- Premier Monitoring Services (undated), *Curfewee’s Guide and Booklet*. Available from Premier Monitoring Services, Norwich.
- Riley, D. and Shaw, M. (1985) *Parental Supervision and Juvenile Delinquency*. Home Office Research Study 83. London: Home Office.