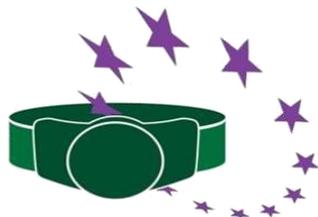




**ELECTRONIC
MONITORING -
SCOTTISH AND
INTERNATIONAL
INSIGHTS &
QUESTIONS**

DR HANNAH GRAHAM



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Iriss

Scottish and International Review of the Uses of Electronic Monitoring

Hannah Graham and Gill McIvor
University of Stirling
August 2015

Advancing electronic monitoring in Scotland: Understanding the influences of localism and professional ideologies

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Abstract

Scotland has one of the highest prison population rates in western Europe, coinciding with a recent growth in interest in electronic monitoring (EM) as a potential mechanism for diversion and decarceration. Scotland also has a relatively sophisticated suite of community sanctions and measures – from which court-imposed and prison-imposed EM orders have, for 15 years, been largely kept separate, until now. There are plans for integration, with new EM technologies and modalities to be introduced. This article analyses the perspectives of Scottish practitioners and decision-makers regarding current and future uses of EM, assessing relevance to international findings from within

Electronic monitoring in the criminal justice system

HANNAH GRAHAM & GILL MCIVOR (SCOTTISH CENTRE FOR CRIME & JUSTICE RESEARCH)
NOVEMBER 2017



Research resources



Electronic Monitoring in Scotland

Gill McIvor and Hannah Graham
Scottish Centre for Crime and Justice Research,
University of Stirling, Scotland

May 2016



Electronic Monitoring in Scotland Gill McIvor and Hannah Graham University of Stirling, Scotland

Key findings

- ✦ Electronic Monitoring (EM) is available at various points in the criminal justice process in Scotland.
- ✦ From 2002-2015, EM relied on the use of radio frequency (RF) tagging technology only. GPS tagging and tracking is set to be introduced in the future.
- ✦ Current uses of EM can be characterised as simple and straightforward, with mostly standardised regimes, but relatively sound in achieving objectives including restriction of liberty, diversion, modest decarceration by early release from prison and order completion.
- ✦ EM order completion rates are fairly high, with 8 out of 10 EM orders completed¹.
- ✦ Monitoring of mostly 'standalone' EM orders (i.e. no supervision) by a private EM service provider is associated with limited integration and multi-agency work with criminal justice social workers (Scottish equivalent of probation officers) and charitable organisations. Yet, many of those interviewed wanted greater integration of EM with multi-agency supervision and support.
- ✦ Being responsive to issues of diversity and vulnerability matters to Scottish practitioners and policymakers. Interviewees spoke about tailoring EM to the needs of offenders and victims.
- ✦ Clear differences exist between judicial officers across Scotland in the rates at which they impose EM orders, as well as disparities in uses of breach reporting thresholds and timeframes. Some 'special sheriffs' set up their own breach reporting arrangements with SAS Scotland.
- ✦ There is moderate support for the introduction of GPS tagging and tracking with location-based exclusion zones in cases where this may reduce risk of re-offending and promote victim safety.

Recommendations

- ✦ Clarify national breach criteria. Consider consolidating breach reporting timeframes and thresholds into two nationally available options – standard and intensive – to foster consistency.
- ✦ Introduce mechanisms to give courts and prisons the choice of imposing a supervision requirement with EM involving 'support', to enable more multi-agency work and reintegrative supports. Implementing this will necessitate commensurate funds and resources.
- ✦ Introduce and encourage wider use of mechanisms which motivate and reward monitored people's compliance and desistance, including graduated changes in regimes and conditions, as well as a mechanism to allow authorising agencies to terminate an EM order or condition early.
- ✦ Abolish the statutory exclusion for Home Detention Curfew (HDC) licences which permanently excludes prisoners who have previously breached a HDC licence. It is inefficient and inequitable.
- ✦ Consider more creative uses of EM with people given a custodial sentence, similar to Scandinavian and Dutch approaches, which feature integrated supports for desistance.
- ✦ Ensure future developments in EM policies and practices are informed by the perspectives and lived experiences of monitored people, their families, and victims. More research is needed.
- ✦ Initiate greater awareness-raising among professionals, media and the public about EM.

Creativity and Effectiveness in the use of electronic monitoring: a case study of five jurisdictions

Anthea Hucklesby, Kristel Beyens, Miranda Boone,
Frieder Dünkel, Gill McIvor and Hannah Graham

May 2016



YouTube GB

Search



Iriss on... electronic monitoring in the criminal justice system

20 minute interview with Hannah Graham and Gill McIvor about electronic monitoring and the criminal justice system

<https://www.youtube.com/watch?v=N-f-3jvVk-4>

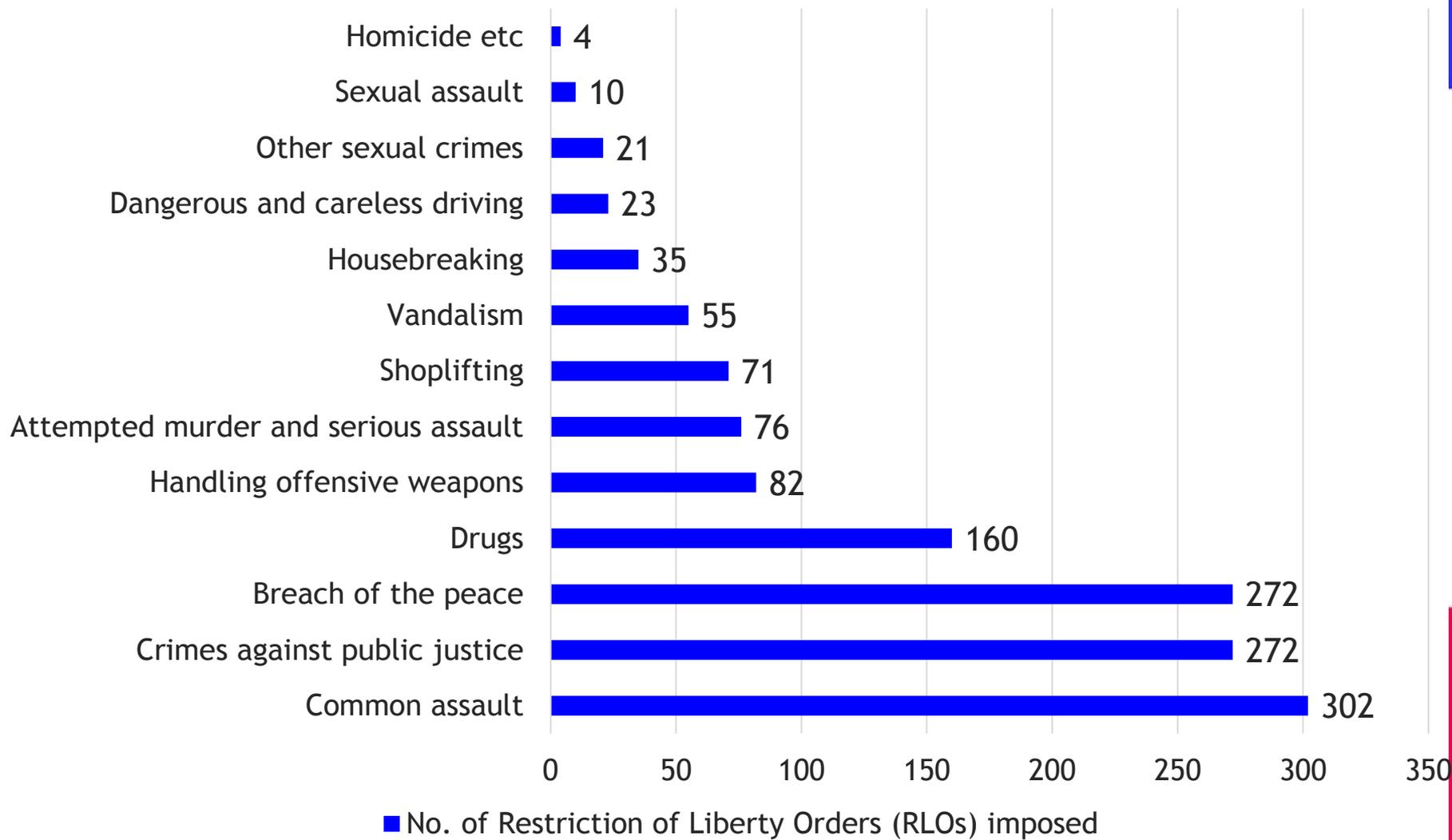
Modalities	Belgium	England and Wales	Germany	Netherlands	Scotland
Pre-Trial	✓	✓		✓	
Court Order	✓	✓	✓		✓
Execution of/ Alternative to a Prison Sentence	✓	✓		✓	
Early Release from Prison	✓	✓	✓	✓	✓
Post-Release		✓	✓	✓	✓
Alcohol Monitoring		✓ pilot		✓ pilot	

Source: Hucklesby et al. (2016)

2013-2018:
**A SEASON OF
CHANGE AND
CONSULTATION**

- 2013-2018: Multiple elections and two referenda in Scotland and the UK.
- Same Cabinet Secretary for Justice from 2014-2018, but ScotGov staff changes.
- 2013 and 2017: Scottish Government EM consultations; local consultation events, robust discussions, optimism.
- 2014-2016: Scottish Government EM Expert Working Group and report.
- 2016: GPS tag technology trial.
- Scottish Government EM Unit set up.
- 2017-18: EM features in the Programme for Government and Justice Priorities.
- EM Comms Strategy, 'EM Champions' network, Streetcones DVD of peer information on EM for prisoners.

Electronically monitored community sentences were imposed by Scottish courts for a diverse range of crimes in 2015-2016.



LOCALISM, PROFESSIONAL IDEOLOGIES AND CULTURES

- In 2017, the rate of Restriction of Liberty Orders (stand-alone community sentence: tag and curfew) imposed by Sherrifs in Glasgow (676) was **339% higher** than their Edinburgh counterparts (199).
- Some courts see marked rises in the number of electronically monitored orders being imposed from year to year. For example, in Aberdeen, there was an **152% increase in one year** of Restriction of Liberty Orders (from 58 in 2016 to 152 in 2017).
- Some courts rarely use RLOs (Stirling, Inverness).
- EM is influenced by localism, ideologies, cultures (Graham & McIvor, 2017, *European Journal of Probation*)





WHY USE EM?

PURPOSES & GOALS

- Punishment: retribution and restriction.
- Decarceration and diversion: seeking to reduce the use of prison/custody.
- Surveillance and monitoring compliance.
- Reducing reoffending.
- Supporting (or being less inhibitive of) desistance from crime and reintegration.
- Trying to reduce costs.
- Trying to reduce time and resource inefficiencies.
- Risk management, victim and public protection.
- Others?

International evidence and experience suggest that electronically monitored orders have fairly high completion rates.

- **Scotland:** Between 8-9 out of every 10 electronically monitored orders are completed (G4S, 2018). On average, about 15% are revoked.
- **Netherlands:** Only around 14% of orders are revoked (Boone et al., 2016)
- **Denmark:** Fewer than 10% of EM orders are revoked.
- **Sweden:** Between 6-10% of EM orders are revoked.

**COMPLIANCE &
COMPLETIONS**

Electronic monitoring in **SCOTLAND**

Research suggests that EM may contribute to **desistance processes** in *some* cases by reducing people's links with situations, people, places and networks associated with their offending and encouraging them to connect or reconnect with influences associated with desistance, such as positive family relationships (where these exist) and employment and meaningful activities and routines.

EM can be used with supervision and support in desistance-oriented ways that aim to be less inhibitive of the process and motivate change.

Graham and Mclvor (2015, 2017a, 2017b)

Mclvor and Graham (2016a, 2016b)



Electronic monitoring in **SCOTLAND**

“It’s about ... giving the people an opportunity to prevent themselves from having to hang about with the same group of people that they were hanging about with at the time they got into trouble, if that makes sense? [laughs] So you know, whereas before, you know, their pals would phone them up and go “right, come on, we’re going out to the pub tonight and blah-blah” and they would go “aye let’s go, that’s fine”, now they go “well I cannae [can’t], I’ve got this tag on” **so it’s giving them the perfect excuse to change** their social circle if they like or, you know, to make that break from a group of people that maybe werenae [weren’t] having the best influence on them” (Interview 12, G4S in Graham and McIvor 2017).

Tech doesn’t change lives, people change their own lives, but a tag and/or curfew may offer some (especially young adults) a tangible catalyst for change, alongside other factors.

Graham and McIvor (2015, 2017a, 2017b)

McIvor and Graham (2016a, 2016b)



Electronic monitoring in **SCOTLAND**

‘Especially young offenders when you think this is going to be a really hard reintroduction into the community ... as opposed to saying to his friends when they come to his door or his hostel or whatever “we’re going out, you’ve got to come out” and young offenders have said “it’s easier if I’ve got a tag”, and that’s very sensible I think. So it’s not “I can’t come and I’m scared, and I’m not one of your group any more”, it’s so they’ve got a bit of a status with having the tag [laughs] which in some ways is a protective element for them in terms of saying **“because of this I can’t come out and do this**, I’ve got to be in my house between these hours” and absolutely I think it is right’ (Interview 23, Parole Board for Scotland in Graham and Mclvor 2017).



Graham and Mclvor (2015, 2017a, 2017b)
Mclvor and Graham (2016a, 2016b)

Electronic monitoring in **SCOTLAND**

One sheriff states '**I'm a fan** of Restriction of Liberty Orders and sometimes **I use it in a punitive way** as an alternative for sending people to jail'; however, they described social workers as 'hating' EM, partly 'because **it is privatised**', and so 'they virtually never recommend it' (Interview 18, sheriff).

When asked if there is consensus between sheriffs and courts regarding why electronically monitored sentences are imposed, another sheriff categorically answered 'no', indicating their view that EM '**isn't really aimed toward rehabilitation at all**. Deterrence, maybe?' (Interview 19, sheriff). (in Graham and McIvor, 2017).



CHAMPIONING WHAT?

Consensus about purposes and aims, about proportionality is needed to tackle risks of **net-widening** and the proliferation of punishment. **What we don't want to enable is mass incarceration, mass probation, mass surveillance.**

Electronic monitoring in **DENMARK**

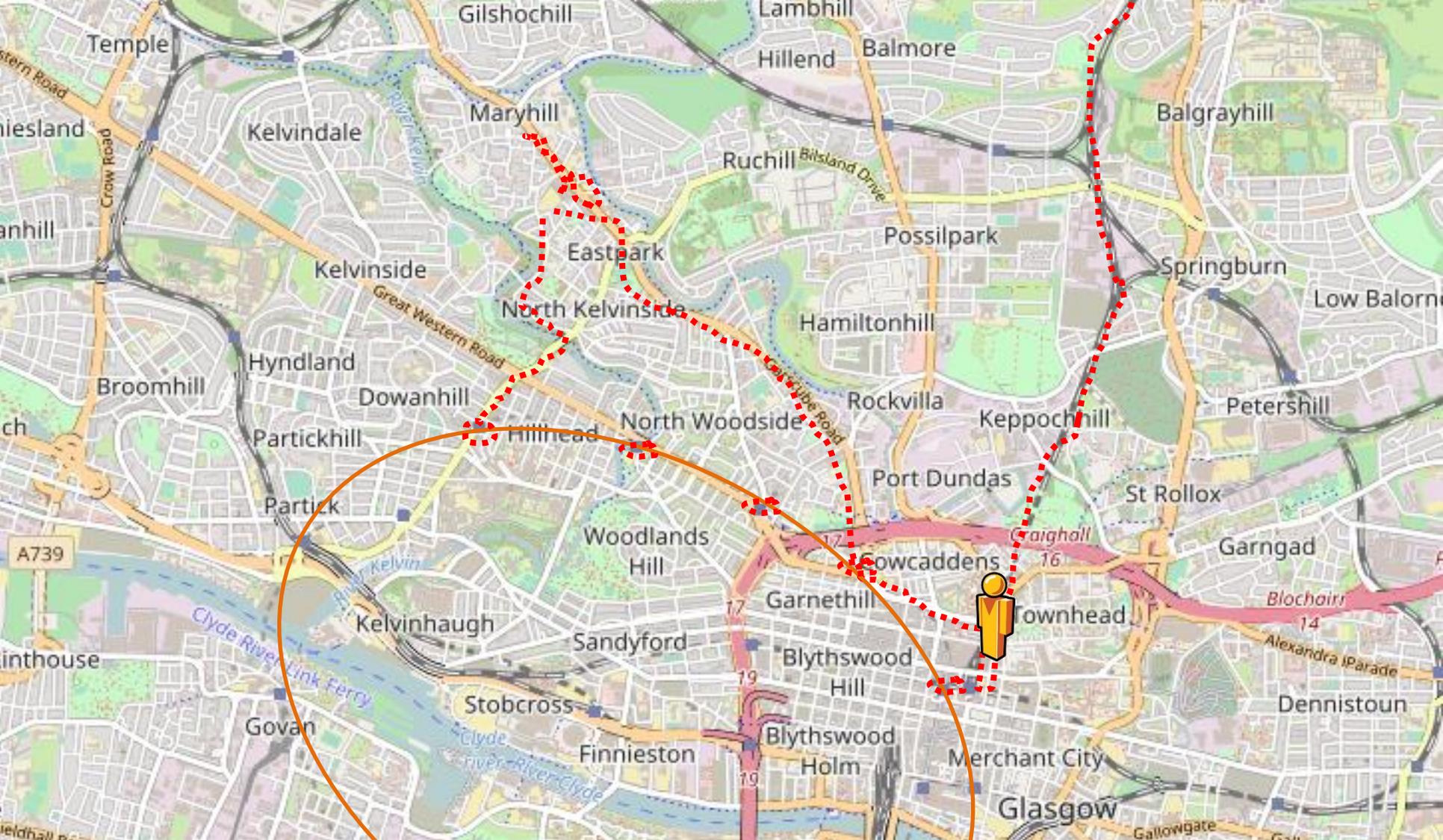
- First introduced in 2005;
- Approach characterised by intense supervision, control, support;
- **EDUCATION:** Larsen's study (n = 1,013) of 18-25 year olds shows EM programme is associated with 18% increased completion rates of upper secondary education three years afterwards, compared to short-term imprisonment;
- **WELFARE & UNEMPLOYMENT:** Andersen & Andersen's study finds EM reduces welfare dependency compared to imprisonment for young offenders (under 25). Dependency trajectories for older offenders don't differ much for EM or prison.



Andersen and
Andersen (2014)
Gainey (2014)
Larsen (2017)

QUESTIONS

- Electronic monitoring, digital justice and digital criminology?
- Who monitors or inspects electronic monitoring? Independent inspection, complaints?
- Innovative according to whom? For the benefit of whom? Ethics of innovation need reflexive, regular consideration. Just because something is innovative does not mean it is just. Just because something is not prison does not mean it is good or without collateral consequences.
- Professionalism, workforces, changing work, fear, algorithms, digitisation – Skilled helpers? Skilled technicians? Replaceable with cheaper options? (see Mike Nellis, 2017)
- Overarching context of austerity and politicisation alongside agendas for digitisation and integration of justice.



EM, Privacy, Rights, Data Protection and Sharing:

Who can/can't access and know what, how and why?

What are public expectations and perceptions of justice agencies?

Electronic monitoring offers a versatile and flexible tool in trying to reduce swollen prison populations, but its use must be anchored in an ethos of proportionality, a pragmatic awareness of its limitations, strengths and potential misuses, and the need to balance the rights and interests of *all* involved.

Visions of advancing digital justice and criminal justice need to be interconnected with agendas and visions of advancing social justice and a more just Scotland. EM can be used ethically.

Instead of simply focusing on when and where a person must be curfewed to or excluded from, we can learn valuable insights from how European neighbours, like the Netherlands and Scandinavian countries, use electronic monitoring in integrated ways with probation supervision for clear purposes. Approaches in these countries focus on the purposes and goals of **rehabilitation, reintegration and desistance** to promote pursuit of normal meaningful lives during and after monitoring has finished, and promotion of universal rights, access to social goods and opportunities.

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