

APPA Response to Criticisms of Electronic Monitoring

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In recent months a number of reports, articles, and editorials have been published condemning the use of electronic monitoring, some even going as far as calling for a ban on its use. Critics argue that electronic monitoring is simply another form of incarceration, calling it “e-carceration”, rather than a true alternative to jail or prison. Electronic monitoring has been framed as a misuse of authority designed to expand government control over justice-involved individuals, many of whom are minorities or otherwise vulnerable populations. Some argue that the restrictions associated with electronic monitoring are overly harsh and responses to violations or equipment failures can be extremely punitive. Additionally, it has been reported that the costs of electronic monitoring are unfairly passed down to those who can least afford it and those who cannot pay are threatened with incarceration. Finally, electronic monitoring has been portrayed as ineffective in terms of cost and impact on outcomes.

The American Probation and Parole Association (APPA) is aware of these criticisms and misconceptions. While we certainly agree that the technology is not perfect and there remains much to learn about effective and equitable implementation, we believe that the appropriate use of electronic monitoring is an important community supervision tool. Electronic monitoring allows justice-involved individuals to remain in the community (rather than incarcerated), preserve employment, maintain residence, support their families, and access the resources and support needed to improve their lives. In spite of these benefits, less than 2% of individuals under correctional control are supervised in this manner. Recently, APPA published an issue paper on this topic (https://www.appa-net.org/eweb/docs/APPA/stances/ip_IL.pdf) which provides guidance to community supervision agencies on how electronic monitoring can enhance mission performance. Given the recent media reports critical of the use of electronic monitoring, APPA would like to provide a balanced response to some of the stronger criticisms, most of which are significantly overstated and others of which are simply incorrect. We also note areas in which we are in agreement.

In answer to some of the specific criticisms:

1. Electronic monitoring is just another form of incarceration.

Response: Outside observers often discuss electronic monitoring as if it were a distinct program, sentence or stand-alone strategy; however, it is more accurately conceptualized as one component of a larger case management plan informed by the justice-involved individual's criminogenic risks and needs identified through evidence-based assessments. The case management plan is crafted to achieve objectives related to public safety **and** the individual's

positive behavioral change. Electronic monitoring is a tool that can support these objectives; it is not inherently punitive. APPA believes it is misleading and irresponsible to characterize electronic monitoring as simply another form of incarceration. Unfortunately, the unintended consequences of incarceration are well established. Those incarcerated are not only *truly* deprived of their freedom; their physical health, mental health, relationships, and prospects for future employment are significantly impacted. The collateral consequences of incarceration can have devastating effects on the children of those incarcerated as well as communities. When properly implemented as part of an alternative to incarceration strategy (either pre- or post-conviction), electronic monitoring not only saves taxpayer dollars, but also spares the individual, their families, and their communities, from the negative impacts of incarceration.

2. Electronic monitoring devices are “digital shackles”.

Response: APPA acknowledges that participating in an electronic monitoring program can be difficult. These individuals are subject to curfews and are granted limited freedom of movement, however we believe it is inappropriate to characterize these devices as “digital shackles”. While many agencies closely monitor an individual’s whereabouts and schedule, these individuals are in most instances able to work, attend school, treatment programs, and religious services with prior approval. Any variations require an officer’s approval; however, this is necessary for supervision purposes. Again, requiring adherence to a strict schedule should not be imposed as punishment, but rather to encourage accountability, and to support transition to a more prosocial lifestyle while promoting public safety. Following periods of compliance, these restrictions are often reduced. In most cases, the devices are eventually removed.

3. Electronic monitoring does not help justice-involved individuals or produce positive outcomes; there is little research to support its use.

Response: While the research is somewhat mixed, depending on the study and the population observed, some studies have demonstrated reductions in recidivism and/or improved compliance with the conditions of supervision. Further, research has indicated that the structure associated with electronic monitoring may help justice-involved individuals achieve better compliance with programming such as substance abuse treatment. It is not uncommon for justice-involved individuals to acknowledge the benefits of monitoring in their interactions with their supervision officers. Many claim that electronic monitoring has improved their lives by providing the additional structure and accountability needed to help them avoid problematic behaviors. Others point to the fact that the technology offers proof that they are complying with supervision requirements and can be trusted with more liberty. Some participants have noted that monitoring can indicate that they were not in the vicinity of a crime, and as a result can be excluded from suspicion. Further, gang members have reported that monitoring provides them with a ready and acceptable excuse for not participating in gang activities; they do not want the

tracking device to lead authorities to their fellow gang members. That said, APPA recognizes that there is much to learn about how to most effectively deploy this technology to achieve desired outcomes. APPA encourages significantly more research in this area to inform best practices.

4. Electronic monitoring is not cost effective.

Response: Electronic monitoring can be cost effective when used in lieu of incarceration. Researchers estimate the cost of incarceration as six times higher than the cost of electronic monitoring; therefore alternative to incarceration programs produce a positive return on investments while strengthening communities. Further, electronic monitoring may deter new offending. Therefore, in addition to criminal justice system cost savings, researchers suggest that significant societal savings can be realized through averted victimization.

5. Individuals on electronic monitoring feel they are still incarcerated because they face punishment for the slightest violation.

Response: While anomalies may exist, we believe it is rare that anyone is arrested and incarcerated for a minor monitoring violation. Electronic monitoring should be primarily used as a tool to promote accountability and responsibility and to support positive behavioral change. Further, the criminal justice system is increasingly conscious of the impact that revocations based on technical violations have not only on the individual, but also on the prison population as a whole. Agencies are taking significant measures to ensure that revocations only occur as a last resort. APPA supports the use of intermediate sanctions; the use of incarceration in response to technical violations should be extremely limited. That said, the risk level of the individual, determined by evidence-based assessment tools, combined with patterns of non-compliance may ultimately warrant arrest and/or revocation to maintain public safety.

6. Rules associated with electronic monitoring present an undue hardship on the individual's family.

Response: APPA recognizes the impact electronic monitoring can have on the justice-involved individual's family and we recommend that agencies develop a strong understanding of how participation impacts family dynamics. We encourage agencies to provide strong case management and support services, as needed, to address any hardship that may develop. Ultimately, we believe, the inconveniences associated with electronic monitoring (e.g., not being able to leave the home at certain times for important events or obligations) are more than outweighed by the value of keeping a family unit intact and avoiding the negative consequences of incarceration.

7. Electronic monitoring fees are unfair and participants are subject to incarceration if they are unable to pay.

Response: APPA believes that offender fees should be eliminated or significantly curtailed. When necessary due to legal mandates, fees should be based on the individual's ability to pay and this evaluation should be revisited when circumstances change. Finally, we believe that incarceration should never be recommended as a sanction solely for failure to pay fees.

8. Electronic monitoring equipment is problematic, and the participant bears the brunt of faulty equipment and is returned to prison for device malfunctions.

Response: APPA recognizes that no technology is perfect, however, the capabilities and limitations of the technology are well understood. Agencies should be aware of the possibility that technical issues (e.g., poor satellite coverage, defective batteries) outside of the individual's control can occur. Agencies should have policies in place to respond judiciously to these issues and consider factors such as the individual's risk level and overall history of compliance, as well as equipment performance history and known locations where signal reception is poor, when determining whether any sanction should be imposed. It should be noted that the technology is continuously improving in many respects.

9. Participants are required to charge equipment multiple times a day and must be tethered to a wall for hours.

Response: Charging requirements have been misrepresented in the media. Individuals typically must charge their batteries for no more than two hours each day, not multiple times per day as has been reported. Further, the industry has developed batteries with longer life as well as cordless charging options that eliminate the need for individuals to be "attached" or "tethered" to a power source to re-charge. Finally, the industry, pushed by the market, is continuously developing smaller and more streamlined designs to make devices less obtrusive, causing less stigma for the individual. Location monitoring through smartphone applications is an emerging approach demonstrating the desire to remove stigma.

Conclusion: Many justice-involved individuals have significant criminogenic needs which require treatment, as well as supervision and accountability. Electronic monitoring is one tool that can support both objectives. When implemented with clear policies in place that are consistent with research on best practices, electronic monitoring can be part of larger case management strategies that can enhance public safety more cost effectively and humanely than incarceration. It should be noted that less than 2% of individuals under correctional control are placed on electronic monitoring. This is a small number, and it is likely that many individuals currently incarcerated in jails and prisons could be safely supervised

in the community with the use of electronic monitoring. If anything, the naysayers should be supporting more electronic monitoring and less incarceration. Ultimately, APPA believes that electronic monitoring should be used for only those individuals who truly require this level of supervision (as determined by a risk/needs assessment or current custody status); be used only for the length of time necessary to accomplish the supervision objectives with incentives for early removal; and the fees for electronic monitoring should be eliminated or significantly curtailed. APPA has many experts on the use of electronic monitoring who can be made available for further discussion and information.

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