

# Future of Corrections



Exploring the use of electronic monitoring

Appendices: the unrealised potential

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# Appendix A:

## Potential Applications of Electronic Monitoring

**This Appendix serves as a supplement to Chapter 5 of the Policy Exchange report, *Future of Corrections*, providing additional detail on the potential applications for electronic monitoring.**

The developing evidence base for electronic monitoring shows us that offenders subject to electronic monitoring are more likely to comply with the conditions of their supervision. This appendix provides more detail on the areas in which electronic monitoring might be gainfully applied in future. Electronic monitoring has traditionally been considered primarily as a means of recording geographic data relating to the offender, such as whether they were absent from or present at their curfew address, or to track, sometimes in real-time, the actual location of the offender. The ability to restrict the movements of a tagged offender has been utilised at all three stages of the criminal justice process, but, despite considerable appetite on the part of practitioners to make more effective use of electronic monitoring, in England and Wales, tagging is only applied in sentence and post-sentence stages.

**Figure A1: Criminal justice system stages**

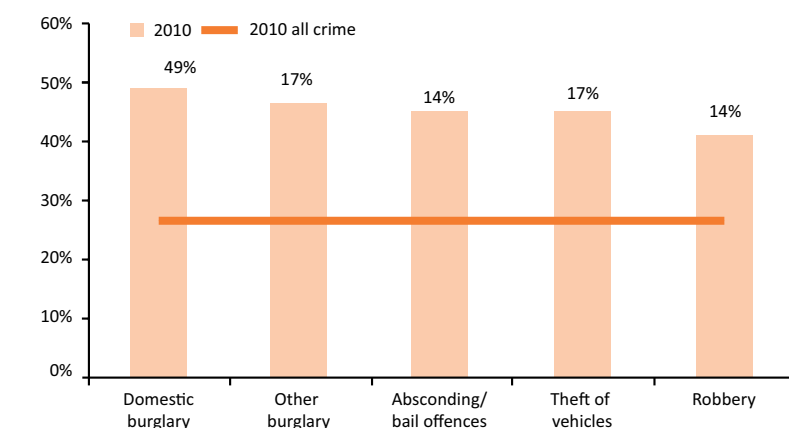
Pre-trial	Sentence	Post-sentence
EM can be used to enforce bail conditions and/or to allow a more intelligent risk-based approach towards the use of remand pre-trial.	EM can be used as a standalone sentence, in combination with other requirements or to provide a mechanism to better manage risks on release from custody (either on licence or HDC).	EM can be offered or requested on a voluntary basis for offenders who wish to turn their backs on crime or improve their lives.

### The backdrop to extending electronic monitoring

Any expansion in the use of electronic monitoring should be guided by the evidence base and the prospects for reductions in crime and re-offending. Re-offending and crime figures can be used to determine those crime types with the highest re-offending rates.

The overall re-offending rate in the 12 months up to June 2010 was 26.4%. However, five index offence types had proven re-offending rates in excess of 40%. These were domestic burglary, other burglary, absconding or bail offences, theft of vehicles and robbery.

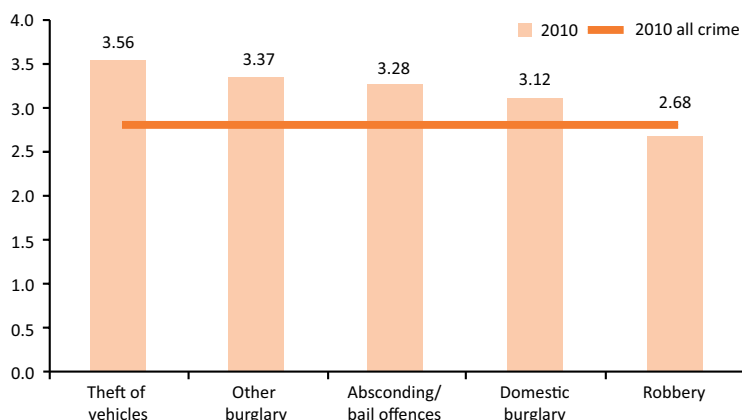
**Figure A2: Proven adult and juvenile re-offending by index offence**



Source: Ministry of Justice<sup>1</sup>

Four of these five crime types also have more proven re-offences per re-offender than the average for all crime. The result is that not only are these offenders the most likely to re-offend, but they have an above-average frequency of re-offending (i.e. they commit more re-offences than the average).

**Figure A3: Proven re-offences per re-offender by index offence**



Source: Ministry of Justice<sup>2</sup>

1 <http://www.justice.gov.uk/downloads/statistics/reoffending/proven-reoffending-jul09-jun10-tables.xls>

2 <http://www.justice.gov.uk/downloads/statistics/reoffending/proven-reoffending-jul09-jun10-tables.xls>

As a consequence, we classify theft and handling, burglary and robbery as priority crimes and use these to estimate the likely offender population on community and

suspended sentence orders who should be subject to more intensive supervision through electronic monitoring. These crime types lend themselves to targeting through the use of GPS, since these crimes will each take place in a specific venue – a location that can be mapped against the previous locations of offenders on GPS tags.

The data also suggests scope for enhancing the supervision of offenders on bail, in light of the re-offending that is detected, but also based on the views gathered from police forces, who highlight the issue of offenders on bail and the challenge of enforcing many of the conditions that are routinely attached.

Based on the risk of serious public harm and public priorities, we also recognise those convicted of sexual offences and violence against the person as candidates who may be suitable for electronic monitoring of either their location or, in the case of those where violence was alcohol-related, alcohol monitoring.

A local area may of course have a particular problem with another crime type and so the suggestions made here should all be viewed through the prism of local priorities. [Chapter 6] describes how these local variations can be accommodated and allowed to flourish, rather than be crowded out through large, inflexible and lengthy national contracts.

## Targeting the right offenders

As with any area of public policy, electronic monitoring is not immune from the reality that resources are limited. Realising the potential of electronic monitoring is not about tagging every offender, but instead focusing on those who pose the highest risk and/or where the greatest public benefit exists. This is ultimately a judgement call to be made by local areas, who will have the best sense as to the priorities and harm caused by offenders in their area. The police already provide input into bail conditions, and this input should be extended to include recommendations for electronic monitoring.

Since the Crown Prosecution Service took over the criminal prosecution function, the police have had very little input into the sentencing and post-release process. Given the extent to which police believe electronic monitoring can help them prevent crime, detect crime and manage offenders, the police should be given the ability to make recommendations to the courts at any point between the suspect being charged and sentenced. These recommendations should be presented to the sentencing judge or magistrates, at court when the offence is clearest in the minds of sentencers.

The ability also needs to extend for some of those offenders released on licence to be placed on electronic monitoring. Arguably this should be primarily set at court – when the offence is freshest in the minds of the sentencer and when the greatest extent of information is readily available.

Examples of offences and offenders that should be targeted include those who have a history of domestic violence, in order that any victims might be protected through the use of a GPS-monitored exclusion zone.

Other offenders include the most prolific and those who pose the highest risk. We look at each of these groups in turn, and, as our survey found, there is considerable support from both police and probation:

*“GPS movement tagging is an excellent concept and something we would support fully as part of a wider package of measures for selected offenders”*

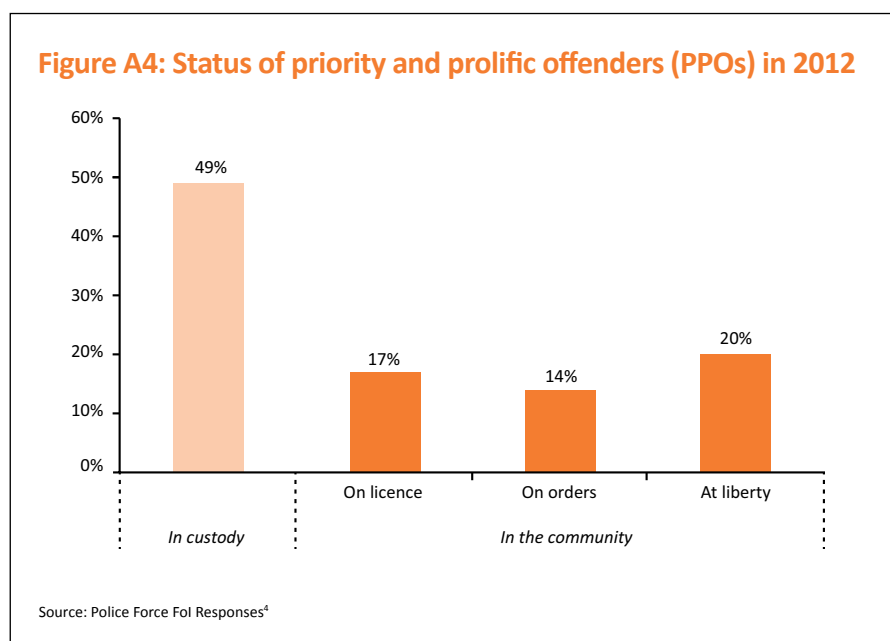
Police Force, Policy Exchange Electronic Monitoring Survey

## Priority and prolific offenders

Priority and Prolific Offenders (PPOs) are selected by police forces on the basis of the nature and volume of the crime they commit; the nature and volume of the harm they are causing and local criteria, based on the impact of the individuals in their communities.

They have a disproportionate impact on the community, with Home Office research estimating that the most active 5,000 offenders are responsible for 1 in 10 offences and that a larger group, numbering approximately 100,000 and accounting for 10% of the active offender population, commit half of all crime.<sup>3</sup>

Anecdotal evidence suggests somewhere between 33% and 50% of PPOs are in custody at any point in time, with the remainder in the community on licence or a court order, or at liberty. Police force responses to a Freedom of Information Act request revealed that in 2012 PPOs were equally split between being in custody and in the community.



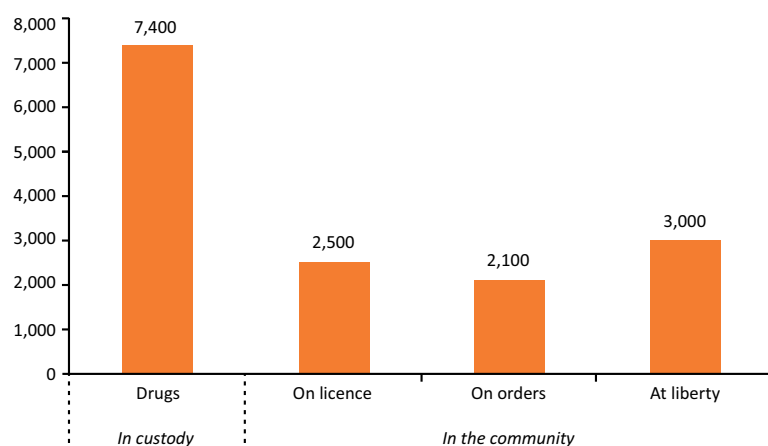
Applying these proportions to the total PPO population of approximately 15,000 offenders, there are around 7,600 priority and prolific offenders in the community at any point in time, with 60% of them subject to either a court order or licence conditions.

The use of electronic monitoring, in the form of a combined RF and GPS unit, for the PPO population could help prevent crime and improve community safety by providing greater control and supervision facilities for the offender managers working with them.

<sup>3</sup> Research cited in <http://library.npia.police.uk/docs/hordsolr/rdsolr0807.pdf> (Home Office (2001) Criminal Justice: The Way Ahead; Home Office (2002) Justice for all. Government White Paper)

<sup>4</sup> Based on 28 responses to a Freedom of Information Act made to all police forces.

**Figure A5: Estimated number of PPOs in custody and in the community**

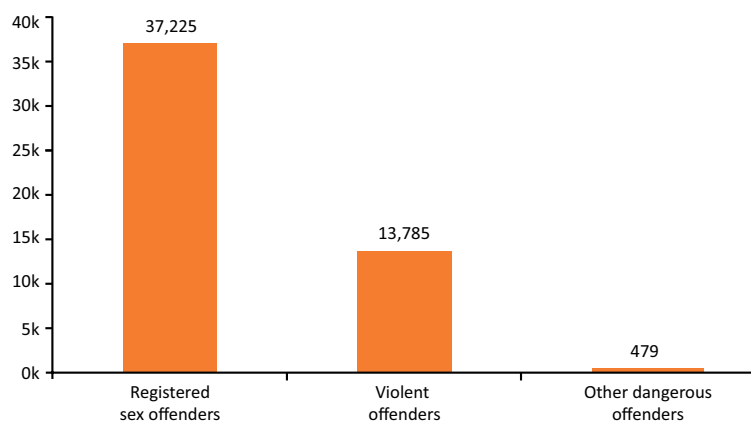


Source: Home Office FOI and Police Force FOIs

### MAPPA: Multi-Agency Public Protection Arrangements

There are more than 51,000 MAPPA-eligible offenders, comprising some 37,000 registered sexual offenders, a further 14,000 violent offenders and almost 500 other offenders who are deemed to pose a risk of serious harm.

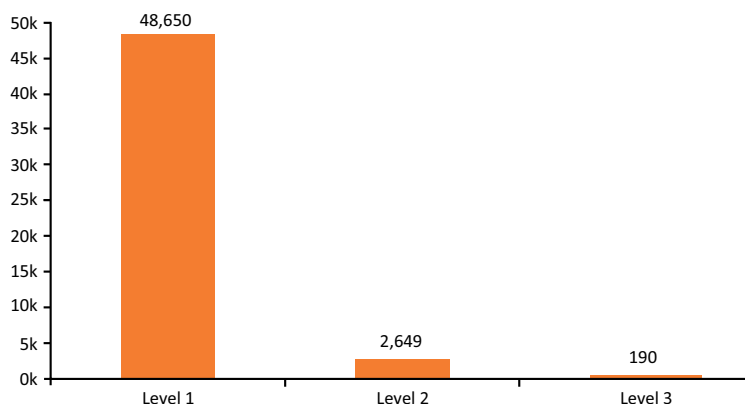
**Figure A6: MAPPA eligible offenders by category**



Source: Ministry of Justice<sup>5</sup>

MAPPA-eligible offenders are subject to three possible levels of management and supervision, ranging from ordinary agency management (Level 1), active multi-agency management (Level 2) and active multi-agency management with the involvement of senior staff (Level 3).

<sup>5</sup> <http://www.justice.gov.uk/downloads/statistics/mojstats/mappa-annual-stats-tables-1011.xls>

**Figure A7: MAPPA eligible offenders by management level**Source: Ministry of Justice<sup>6</sup>

At present there is very limited use of electronic monitoring in relation to MAPPA eligible offenders. This is borne out by a Criminal Justice Joint Inspection of Multi-Agency Public Protection Arrangements (MAPPA) in 2011, which examined 9 MAPPA cases in each of 6 locations across England and Wales.

Nineteen of the 54 cases were defined as the “most serious and critical individuals” who were “often the subject of significant media and public interest”.<sup>7</sup> In spite of this, the report only mentions electronic monitoring briefly, stating that EM providers have a “duty to co-operate” and that, of the 54 cases examined, EM providers were only “involved in one case” and “had not been invited to participate in the MAPPA”.<sup>8</sup> Given the issues around communication and integration outlined in Chapter 3, this is a cause for concern.

If the CJJI work is representative of the MAPPA caseload, it suggests that fewer than 2% of MAPPA-eligible offenders are subject to electronic monitoring. At best, it suggests that just 5% of the most serious and critical individuals (Level 3 MAPPA) are subject to electronic monitoring. The most serious will therefore likely be subject to police surveillance, a costly and resource-intensive activity. In some cases, EM could prove a viable and more cost-effective alternative, helping free up police resources:

*“There are examples where we need to utilise a surveillance team to track a subject rather than having the subject fitted with a GPS device, which would enable us to do this at a fraction of the cost.”*

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There is real appetite to explore the greater use of electronic monitoring in relation to MAPPA, with police forces stating that they are actively looking at piloting GPS tags:

*“We are currently looking at piloting the use of GPS tags for prolific offenders and registered sex offenders and MAPPA nominals within the next few months.”*

Police Force, Policy Exchange Electronic Monitoring Survey

<sup>6</sup> <http://www.justice.gov.uk/downloads/statistics/mojstats/mappa-annual-stats-tables-1011.xls>

<sup>7</sup> <http://www.justice.gov.uk/downloads/publications/hmiprob/adult-inspection-reports/joint-thematic/mappa-thematic-report.pdf>

<sup>8</sup> <http://www.justice.gov.uk/downloads/publications/hmiprob/adult-inspection-reports/joint-thematic/mappa-thematic-report.pdf>



At a minimum, it would seem wise for police forces and other local agencies to trial technology in relation to MAPPA-eligible offenders, both across supervision levels and offender categories.

We believe there is potential for police and local agencies to apply electronic monitoring, in the form of either a GPS or combined RF and GPS tag, to all offenders in the most serious risk categories (Level 2 and Level 3). A more aggressive strategy could see approximately 15,000 MAPPA nominals on electronic monitoring, combining those on Level 2 and Level 3 with those deemed by the agencies to pose a higher risk.

If England and Wales were to follow the approach of many states in the United States to the electronic monitoring of registered sex offenders, it is reasonable to expect more than 40,000 MAPPA nominals to be subject to a GPS tag.

### Pre-trial: offenders on bail

Adults and, more frequently, children and young people can be released by a court with a curfew condition enforced by electronic monitoring.<sup>9</sup> Their time wearing a tag is determined by the length of time between their being released on bail and the conclusion of their trial. At any one time about 40% of those wearing a tag are on bail, equating to almost 10,000 on a given day.

Adults should only be placed on such a bail condition where the alternative is a remand in custody. CPS legal guidance on bail states:

*“The Court must be satisfied that without the electronic monitoring the defendant would not be granted bail. This is intended to ensure that tagging is only used where necessary and to support the proper use of public funds.”<sup>10</sup>*

Research conducted at Crown Courts in Manchester and Norwich found the three most frequently cited grounds for the imposition of custodial remand are the nature of the offence, the character of the offender and any previous criminal record.<sup>11</sup>

The aim of custodial remand – or electronic monitoring on court bail – is therefore to protect the public from any further offending, including the victim and any witnesses. For this reason it is deeply disappointing that a dip sample conducted by one police force showed that “in 80% of cases the curfew period (almost always at night) did not cover the time of the suspected offending and therefore could have no impact on it.”<sup>12</sup>

Furthermore, current court bail electronic monitoring is limited to a home curfew arrangement. This is in stark contrast with the range of options available to courts in the United States. The form reproduced below shows the options available to courts in the City and County of Denver.

The options include alcohol monitoring, home curfew and GPS location monitoring, with the ability to provide exclusion zones and to prohibit the consumption of alcohol. Without the use of electronic monitoring, these requirements would be difficult to monitor and ultimately enforce. In England and Wales, where electronic monitoring options are limited, criminal justice practitioners find that violations are rarely detected or enforced:

9 Ss 3AA, 3(6ZAA) Bail Act 1976 and s 23AA Children and Young Persons Act 1969

10 CPS Legal Guidance on Bail ([http://www.cps.gov.uk/legal/a\\_to\\_c/bail/](http://www.cps.gov.uk/legal/a_to_c/bail/))

11 <http://library.npia.police.uk/docs/homisc/occ-bail.pdf>

12 Police Force, Policy Exchange Electronic Monitoring Survey

**Figure A8: Example of pre-trial conditions from City and County of Denver, Colorado, USA**

**DENVER COUNTY PRETRIAL SERVICES RELEASE AGREEMENT**

Case Number: \_\_\_\_\_ Defendant: \_\_\_\_\_ DOB: \_\_\_\_\_

**ADDITIONAL CONDITIONS (The Court ordered these additional conditions to your bond as indicated below):**

\_\_\_ 11. Do not use any controlled substances except for medications prescribed for you by a physician. Submit to and pay for random toxicology testing. Testing to be done at the request of Pretrial Services, as ordered by Pretrial Services and/or the Court. (U.A.'S)

\_\_\_ 12. Do not consume alcohol.

\_\_\_ 13. Participate in and pay for random alcohol testing. (B.A.'S)

\_\_\_ 14. Do not operate a motor vehicle (\_\_\_) under any circumstances (\_\_\_) without a valid license and required insurance.

\_\_\_ 15. Seek gainful employment. Notify Pretrial Services within 24 hours if you start or stop work.

\_\_\_ 16. Do not be at or within \_\_\_ ft. of the following locations: \_\_\_\_\_

\_\_\_ 17. Participate in and pay for an electronic monitoring program, as ordered by the Court. \_\_\_\_\_ FMD (Curfew) \_\_\_\_\_ GPS \_\_\_\_\_ Alcohol Unit (SCRAM) \_\_\_\_\_ Curfew: \_\_\_\_\_ a.m. - \_\_\_\_\_ p.m.

\_\_\_ 18. Have no unsupervised visitation with children under the age of 18 years.

\_\_\_ 19. Participate in mental health, domestic violence, substance abuse and/or any other treatment/counseling services, as directed by the Court.

\_\_\_ 20. Other(s): \_\_\_\_\_

NEXT COURT DATE/TIME: \_\_\_\_\_ Division: \_\_\_\_\_

JUDGE \_\_\_\_\_ DATE \_\_\_\_\_

I have read or have had this form read to me, and understand that as a condition of my bond I am to comply with the above standard conditions, any checked additional conditions and report to the Pretrial Services Office, as directed.

DEFENDANT \_\_\_\_\_ DATE \_\_\_\_\_ Phone Number \_\_\_\_\_

WHITE - COURT GREEN - DA CANARY - PD/ATTORNEY PINK - PRETRIAL GOLDENROD - DEFENDANT Revised 9/09

Source: City and County of Denver Pre-Trial Services

*"In regard to breaches of bail it is clear that violating curfew rarely leads to any enforcement."*

Police Force, Policy Exchange Electronic Monitoring Survey

Recent analysis of remand prison populations across Europe reveals that there are a "relatively greater proportion of prisoners on remand and serving short prison sentences in Europe as a whole than in England and Wales."<sup>13</sup> The research found that in 2008, across the Council of Europe countries, an average of 27% of prisoners were on remand. This compares with a figure for England and Wales of just 16%. The most recent data suggests this has now fallen further, to 14.2%, at the end of 2011.<sup>14</sup>

On this basis, while there may only be limited scope for any further reduction in the prison remand population, there is potential to ensure that those who are on bail in the community can be better monitored. Curfew requirements may be appropriate for some but less so for others. If courts were able to select from a broader menu of options, it is likely that some offenders would see a greater degree of supervision while others would see a lesser degree.

Offenders who are bailed by the police either to court to face a charge or to return to a police station for subsequent investigation can be given conditions of bail to reduce their likelihood of reoffending but cannot be made subject to EM. This is a matter of law as well as the contract that exists between the Ministry of Justice and the two incumbent providers.

The Bail Act 1976 specifically forbids the police from using EM as a condition of police bail despite the fact that both probation and police are keen to explore how EM might be applied to police bail to better protect the public:

<sup>13</sup> [http://www.criminaljusticealliance.org/CJA\\_ReducingImprisonment\\_Europe.pdf](http://www.criminaljusticealliance.org/CJA_ReducingImprisonment_Europe.pdf)

<sup>14</sup> [http://www.criminaljusticealliance.org/CJA\\_ReducingImprisonment\\_Europe.pdf](http://www.criminaljusticealliance.org/CJA_ReducingImprisonment_Europe.pdf)

“We are keen to explore the impact of electronically monitored curfew on offenders subject to police bail.”

Probation Trust, Policy Exchange Electronic Monitoring Survey

### Box A1: Unknowable legal advice blocking electronic monitoring on police bail

As part of our research we requested that the Home Office and Ministry of Justice reveal the legal advice that they may have sought on the use of electronic monitoring on police bail. Both ministries responded that to publish any such information would not be in the public interest:

- **Home Office:** “In respect of questions 1, 2 and 3, we neither confirm nor deny whether we hold any information by virtue of section 42(2) of the Freedom of Information Act. This provision exempts us from the requirement to say whether or not we hold such information, where the information relates to legal professional privilege and the public interest falls in favour of applying the exemption.”<sup>15</sup>
- **Ministry of Justice:** “By virtue of section 42(2), the government is not required either to confirm or deny that any information within the scope of your request is held as, if held, it would relate to section 42 (legal professional privilege). In line with the terms of this exemption we have considered whether it would be in the public interest for us to confirm or deny whether we hold the information. In this case, we have concluded that the public interest favours neither confirming nor denying whether the requested information is held.”<sup>16</sup>

Our belief is that there is considerable potential for greater and more effective use of electronic monitoring in the pre-trial space and that the use of electronic monitoring in cases of police bail should be explored and that any legal advice should be ultimately subjected to test in a court of law.

## Home detention curfew

On average, more than 50,000 prisoners have been eligible for Home Detention Curfew (HDC) release each year over the last decade. However, only a fraction of those eligible for release on HDC are released, numbering around 12,000 in 2009. The proportion has fluctuated between 20% and almost 40% over the last decade for which figures are available.<sup>17</sup>

Governors are ultimately responsible for making the decision to release prisoners on HDC. There are a number of prison service instructions (PSIs)<sup>18</sup> that seek to provide guidance for governors, although the NAO concluded that ultimately the “governor’s decision ... is essentially subjective” with “variations between prisons” suggesting the “initial assessments could be more consistent”.<sup>19</sup>

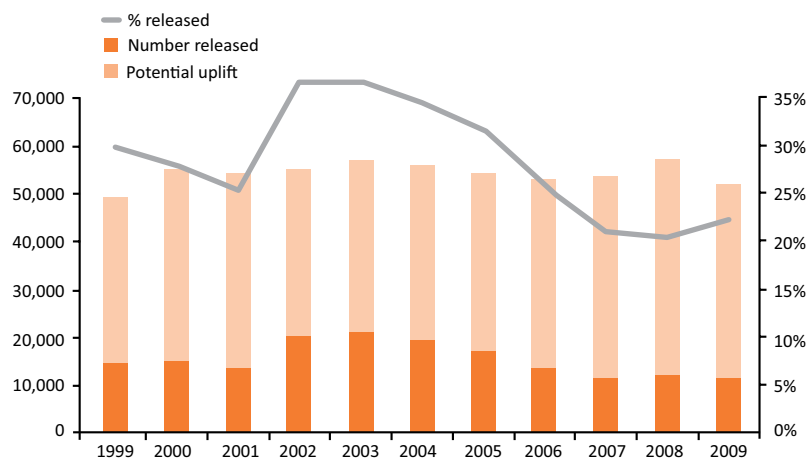
15 Home Office – Freedom of Information Act Request – Ref 22762/18 June 2012

16 Ministry of Justice – Freedom of Information Act Request – Ref 76295/8 June 2012

17 More recent figures are not available due to problems with the Ministry of Justice/NOMS HDC database.

18 <http://www.justice.gov.uk/downloads/information-access-rights/foi-disclosure-log/justice-policy/foi-73095-nov2011.doc>

19 <http://www.nao.org.uk/ido.ashx?docId=16d92eab-b94c-4704-b8d9-16277262f81d&version=-1>

**Figure A9: Home detention curfew eligibility and releases**Source: Ministry of Justice<sup>20</sup>

If the number of HDC releases were to revert to the peak point of 2002 and 2003 (c.37% of those eligible) then we could expect to see a total of almost 20,000 offenders on HDC, an increase of 8,000 on the current level, and a daily caseload of 4,400 offenders. This equates to freeing up 1,600 prison places, saving up to £64 million annually.

HDC in England and Wales currently only makes use of RF technology, identifying whether an offender is within range of the monitoring unit located in the offender's home. The current process also requires a home visit in which an employee of the monitoring company attends the address and installs the tag, monitoring unit and inducts the offender into the scheme.

If offenders, or a portion of offenders, were required to wear a tag with additional GPS functionality, it is reasonable to expect that the greater extent of monitoring would help balance the risks that currently preclude prison governors from authorising the use of HDC on a larger proportion of the HDC-eligible offenders.

The use of GPS-based tags could also obviate the need for a home visit, helping to reduce the cost of the service. There are examples in the United States where offenders are given basic RF technology to self-install, though implicit with this approach is an acceptance that the curfew zone will be larger than it might otherwise be if calibrated by a professional installer. In England and Wales trials are currently underway which see offenders provided with a GPS+RF tag and beacon that can be self-installed. This provides additional benefits through reduced service costs, while also providing an additional level of monitoring, since if an offender is absent then the location can be established via GPS.

The addition of GPS monitoring capability to HDC may also help secure reductions in proven re-offending and/or crimes that go undetected with offenders conscious that the tag no longer simply establishes their presence or absence from a single location, but tracks their location away from the home monitoring unit or beacon.

<sup>20</sup> <http://www.justice.gov.uk/downloads/statistics/mojstats/final-excel-tables-july10.zip>

### Box A2: Self-install and GPS-enabled home detention curfew pilots

The use of a combined GPS and RF tag, with built-in communications technology, along with a plug-in home beacon is currently being trialled on a voluntary basis with prisoners from 6 prisons across East Anglia and the London area as part of a project called the HDC Scale Pilot, operated by [Serco Electronic Monitoring] in conjunction with the Norfolk and Suffolk Probation Trust.

At the point of release, at prison, the offender has their GPS+RF tag fitted and is then issued with the home beacon for them to plug in when they get home. They are given an induction to the scheme and then are free to make their way home and to follow the instruction and simply plug-in their RF-based home beacon device.

The pilot seeks to understand how feasible the self-install and GPS-enabled approach to HDC is, and better understand the costs and challenges involved, while also identifying the costs that it saves and the benefits it can provide over the existing HDC proposition.

The greater supervision afforded by GPS, coupled with potential savings from a self-install approach, could help better achieve the original ambition to see “most eligible prisoners” released on HDC, as was stated in the original guidance accompanying the Crime and Disorder Act 1998.<sup>21</sup>

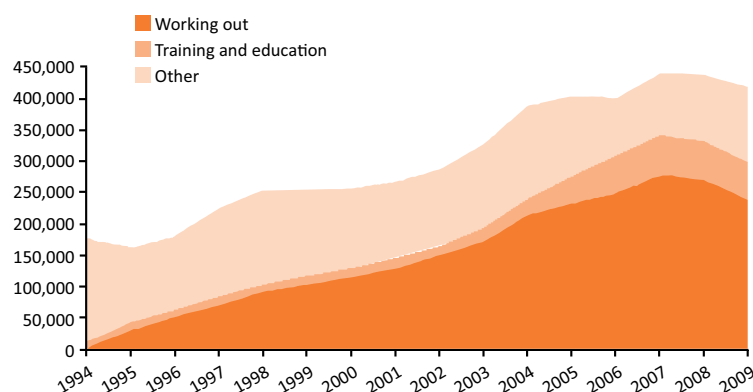
The NAO in 2006 found that the HDC scheme could be made “more efficient” with potential savings of up to £9 million due to delays between offenders’ eligibility date for release on HDC and their actual release date. In 2006 only 59 per cent of offenders were released within two days of their eligibility date.<sup>22</sup>

More efficient processes – coupled with a better range of technology offerings – could be expected to boost the number of offenders that could be released as part of the HDC scheme, providing potential savings on occupied prison places.

### Release on temporary licence

Prison governors have the ability to grant prisoners release on temporary licence, something akin to day release from the prison. This is typically provided to lower-risk offenders to allow them to gain work experience outside of prison, participate in training and education, or for a variety of other reasons.

Figure A10: Number of releases on temporary licence



Source: Ministry of Justice<sup>23</sup>

21 <http://www.nationalarchives.gov.uk/erecords/ho/421/2/cdact/hdc.htm>

22 <http://www.nao.org.uk/doc.ashx?docid=16d92eab-b94c-4704-b8d9-16277262f81d&version=-1>

23 <http://www.justice.gov.uk/downloads/statistics/mojstats/final-excel-tables-july10.zip>

In 2009, the last year for which data is available, there were more than 400,000 occasions of release on temporary licence. On average, this equates to 1,100 prisoners on day-release in the community each and every day.

A number of police forces highlighted this population of offenders as posing a risk to public safety that they believe could be better managed through the use of electronic monitoring:

*“Electronic monitoring should be considered for the thousands of serving prisoners released into the community each day on release on temporary licence (ROTLs). These are for work, education, home leave, etc. ... Enforcement of these licences is almost non-existent.”*

Police Force, Policy Exchange Electronic Monitoring Survey

Given the stated aim of the current government to see a ‘Rehabilitation Revolution’ it is reasonable to expect and, provided risks are appropriately managed, also desirable to see the number of ROTLs increase in the years ahead as prison governors seek to provide the best employment and educational opportunities for prisoners to aid their rehabilitation and resettlement.

Electronic monitoring should be used to support the development of this approach, providing the public and prison governors with confidence in the policy of increased ROTL, while also providing offenders with an additional encouragement to help them in their efforts to desist from crime and identifying those offenders who are abusing the privilege afforded by ROTL.

The extent to which ROTL is used by prisons varies significantly, with some prison governors making good use of it, while others would appear to have a blanket ‘No ROTL’ policy. The application of electronic monitoring technology to the ROTL population could be used to both monitor compliance with the requirements of the ROTL, such as attendance at work, but also to provide governors who otherwise see the balance of risks stacked against ROTL to introduce or extend the use of ROTL in their prison.

Where ROTL is linked to employment, training or education – but especially employment – it is reasonable to expect improved outcomes upon release. This philosophy of encouraging and supporting work release for those offenders who demonstrate compliance – is particularly strong in some of the jails located in the United States.

#### **Box A3: Case study – work release programmes at Denver County Sheriff’s Jail, Colorado, USA**

On the eastern side of Denver, a mile high and at the foot the Rocky Mountains, is Denver County Sheriff’s Jail. Within the perimeter are Buildings 19 and 20, home to the Work Release Unit of the Sheriff’s Community Corrections Department.

A 114-bed dormitory is home to a group of offenders who have been sentenced to the work release programme by court. Throughout the day and night, prisoners leave the facility and make their way to work, training and education placements around the city of Denver. Their employment schedules are verified by the Sheriff’s investigators and job site checks are conducted to verify accuracy. A similar Work Search programme is operated, with offenders again required to provide evidence of productive activity during their time released.

The Work Release Programme is akin to ROTL in England and Wales, with the offenders returning to the unit each day. Denver County Sheriffs have gone a step further, supplementing cost-effective accommodation with the use of GPS location (5% of offenders) and sobriety monitoring (40% of offenders). They have been able to put more people on the programme, better manage risk and help fulfil their duty to help keep the people of Denver safe.

Building on the recommendations made in our recent report, *Inside Job: Creating a market for real work in prison*, it is possible to imagine how the use of GPS-enabled ROTL could help provide opportunities for working prisoners to work outside the prison walls. Where the risk is not so much an abscond as the risk that the prisoner might be tempted to consume alcohol, the voluntary wearing of a transdermal alcohol bracelet might be considered a reasonable condition of ROTL, as is often the case in the United States with community correction and work release programmes.

It is possible to imagine that over time the application of electronic monitoring, in the context of prisoners sentenced to immediate custody, could open up the possibility of developing a more cost-effective accommodation option than prison for employed offenders. Such an approach could provide an additional graduated sanction for offenders in England and Wales, thereby delivering cost-savings to the taxpayer and improved outcomes for the community, the offender and the offender's family. We consider there to be considerable scope for the development of community corrections in England and Wales.

## Offenders released on licence from prison

There were 39,857 prisoners released from determinate prison sentences of 12 months or more in 2010–11. These prisoners will be subject to licence conditions for the remainder of their sentence, or for some legacy prisoners, until the three quarters point of their sentence.<sup>24</sup>

These prisoners have been convicted of a crime and received a custodial sentence. There was considerable appetite on the part of police to see greater use of electronic monitoring for prisoners released on licence from prison. This will in no small part be shaped by the fact that at any point in time some 2,500 (16%) PPOs, priority and prolific offenders, are on licence from prison.

Offenders sentenced to more than twelve months in prison serve half of it in custody and the remainder on a licence, which is supervised by the Probation Service. The licence has conditions attached to it which are designed to reduce re-offending and promote rehabilitation. Although there have been a number of EM pilots involving licencees since 2001, the only offenders now subject to EM on licence are a very small number of offenders who are designated Level 3 (the highest risk level) of a category of offenders managed under local multi agency public protection arrangements (MAPPA). No other types of prisoner on a licence can be placed on EM. This is specifically forbidden by the relevant Ministry of Justice instruction to prison governors.

Based on the most recent figures published by the Ministry of Justice, approximately 40,000 prisoners were discharged from determinate sentences lasting 12 months or more and who are therefore released on licence. Based on current sentence lengths and the provisions of the Criminal Justice Act 2003 the

<sup>24</sup> <http://www.justice.gov.uk/downloads/statistics/mojstats/omsq-q4/omsq-q4-2011-prison-discharge-tables.xls>

25 Local adult re-offending data published by the Ministry of Justice indicates a caseload of 145,000 offenders on licence (including life licence), but concedes that “many offenders will be included more than once”.

26 The discrepancy can be accounted for by the double-counting of individual offenders in the discharge and recall figures, together with the differing treatment of offenders post-release according to the date of their offence.

27 [http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/pi\\_07-2011\\_licence\\_conditions\\_final.doc](http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/pi_07-2011_licence_conditions_final.doc)

28 [http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/pi\\_07-2011\\_licence\\_conditions\\_final.doc](http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/pi_07-2011_licence_conditions_final.doc)

29 PSI 2001/47

30 [http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/pi\\_07-2011\\_licence\\_conditions\\_final.doc](http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/pi_07-2011_licence_conditions_final.doc)

average annual caseload of individuals on licence in the community is estimated at 60,000.<sup>25</sup> Recalls to prison for the last 12 months numbered some 15,000, taking this figure down to approximately 45,000, broadly in line with the 40,000 of offenders subject to post-release supervision by the probation service.<sup>26</sup>

As with the other areas of potential use, the aim is to focus electronic monitoring resources on those who pose the highest risk and/or where the greatest public benefit exists. (e.g. victim reassurance in cases of DV or stalking etc.). At present this means restricting the use of EM as a licence condition to MAPPA Level 3 offenders and those deemed to be a “Critical Public Protection Case”.<sup>27</sup>

Pilots have been run in Hampshire, Nottinghamshire and West Yorkshire, though no results of the pilots have been published – nor were the pilots widely publicised.<sup>28</sup> As part of the pilots trialling the wider use of EM as a licence condition, prison governors were required to “complete a special form and submit it to the Sentence Enforcement Unit in Prison Service HQ for consideration”, in short:

“All non-delegated conditions cannot be agreed by the Governor without the approval of Sentence Enforcement Unit in Prison Service HQ”<sup>29</sup>

The use of electronic monitoring in relation to monitoring and encouraging compliance with licence conditions has therefore not just been relatively unimaginative in England and Wales, but virtually non-existent. The table below details the current range of licence requirements and where there is potential for use of electronic monitoring. Only the curfew element is currently subject to electronic monitoring.

**Table A1: Currently available range of licence conditions**

Requirement	Description	Use of Electronic Monitoring	
		Current	Potential
Contact	Required to attend appointments, typically with mental health workers, psychiatrists or other specialists to help manage any conditions or issues		✓
Prohibited Activity	Prohibits offenders from engaging in certain activities, such as working or seeking to work with children, or owning or possessing mobile phones, computers or other equipment.		✓
Residency	Requires an offender to permanently reside at a specific address and to not stay overnight anywhere without express authorization from their OM.		✓
Prohibited Residency	Prohibits an offender from residing in the same household as any child under a given age.		✓
Prohibited Contact	Not to contact, or approach or communicate with any specific individuals or children under a given age.		✓
Programme	To comply with any requirements to participate in alcohol/drug/sexual/gambling/solvent abuse/anger/debt/prolific/offending behaviour problems and/or to participate in any specific PPO projects		✓
Curfew	To confine yourself to a particular address between specific hours on specific days, whether this be monitored electronically, or by other means	✓	
Exclusion	Not to enter or remain in sight of any specific addresses, locations, persons or facilities (such as swimming pools, schools, playgrounds).		✓
Supervision	To report to staff and declare to staff details of any relationships that develop or vehicles that are owned or hired during the licence period; and to report to supervising staff at given times, on given days.		✓
Non-Association	Not to contact or associate with named individuals, or individuals falling into certain groups such as registered sex offenders, any serving or remand prisoners, or any other specified persons or groups.		✓

Source: NOMS Prison Instruction 07/2011<sup>30</sup>

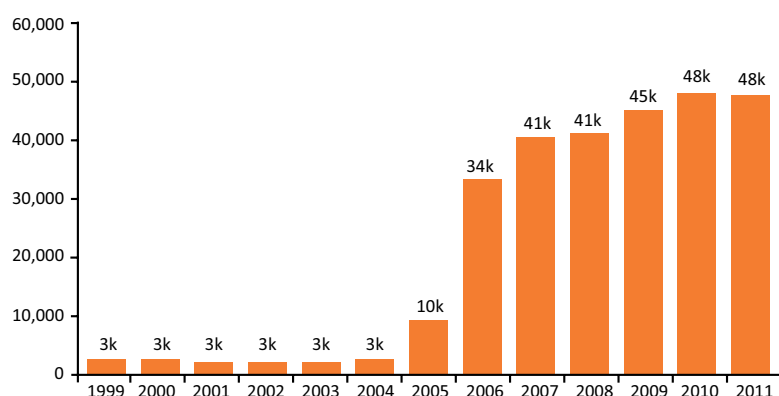


Offender managers are, as a result of the relevant Prison Service Instruction, specifically forbidden from placing any but a small number of offenders on electronic monitoring<sup>31</sup> It is our view that this situation should not be allowed to continue and that, in the interests of both the rehabilitation revolution and protecting the public, greater use of electronic monitoring should be an option for local practitioners.

## Suspended sentences

The use of Suspended Sentence Orders (SSOs) has grown significantly over the last 8 years. This will likely comprise a proportion of offenders who may previously have received a Community Order, but also a significant proportion who would otherwise have received an immediate custodial sentence.

**Figure A11: Number of suspended sentence orders issued**



Source: Ministry of Justice<sup>32</sup>

In 2011, almost 48,000 offenders started Suspended Sentences Orders<sup>33</sup> and based on the latest figures there is an estimated average annual caseload of 70,000 offenders on SSOs. Approximately 22% of offenders on suspended sentences were convicted of our priority crime types – of burglary, robbery or theft offences – which equates to almost 16,000 offenders.

**Table A2: Possible electronic monitoring caseload for offenders on suspended sentence orders**

	Annual caseload	% of SSO caseload
<b>Priority Crimes</b>	<b>15,669</b>	<b>22.4%</b>
Robbery	810	1.2%
Burglary	4,282	6.1%
Theft	10,576	15.1%
<b>Other crime types</b>	<b>13,313</b>	<b>19.0%</b>
Violence Against the Person	12,589	18.0%
Sex Offences	725	1.0%
<b>Total</b>	<b>28,982</b>	<b>41.4%</b>

Source: Ministry of Justice, Policy Exchange Estimates

31 [http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/pi\\_07-2011\\_licence\\_conditions\\_final.doc](http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/pi_07-2011_licence_conditions_final.doc)

32 <http://www.justice.gov.uk/downloads/statistics/mojstats/sentencing-stats-09-supp-tables.xls>

33 <http://www.justice.gov.uk/downloads/statistics/mojstats/omsq-q4/omsq-q4-2011-annual-tables.zip>

A further 13,000 offenders convicted of sex offences and violence against the person could also be targeted with electronic monitoring in a bid to reduce their re-offending and to ensure that where offenders are continuing to engage in criminal activity or otherwise breach their order, their case can be returned to court and the custodial element activated.

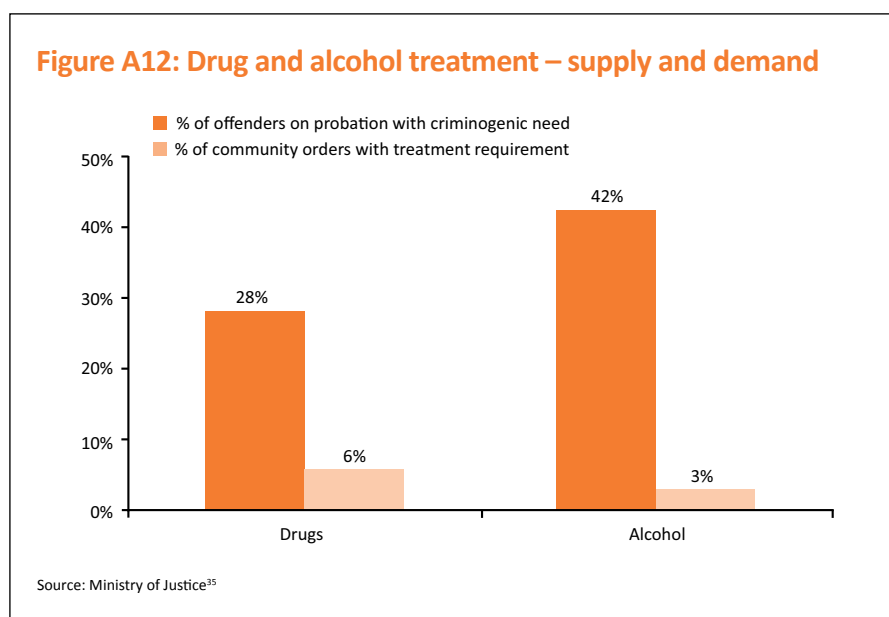
## Alcohol abuse and sobriety

Sobriety monitors have been trialled in Glasgow, but otherwise have received more publicity in the UK than use. They are currently deployed in at least 48 states in the USA.<sup>34</sup> They enable offenders to have their consumption of alcohol continuously monitored. Our survey of probation trusts and police forces revealed a desire to explore the potential for sobriety testing and monitoring:

*“Sobriety testing is also an interesting tool and its practical application to reduce night time economy violence is yet to be fully realised.”*

Probation Trust, Policy Exchange Electronic Monitoring Survey

Tackling drug abuse, particularly opiates and cocaine, is regularly seen as a key means of reducing crime and re-offending. Alcohol has received less attention. Although alcohol abuse would seem to be a more common feature of offenders’ lives (42% vs. 28% for drugs), treatment requirements for alcohol are much less common for those on community orders (3% vs. 6% for drugs).



<sup>34</sup> Alcohol Monitoring Systems Inc. Presentation

<sup>35</sup> <http://www.justice.gov.uk/downloads/publications/statistics-and-data/mojstats/omsq-q2-probation-tables.xls> (Table 4.3 – Community Orders and Requirements)

The introduction of sobriety orders looks likely to help close the gap between the large proportion of offenders with a criminogenic need in relation to alcohol and the tiny proportion who receive alcohol treatment. Evidence suggests there is good reason to tackle the problem of alcohol abuse, with those assessed as having an alcohol need far more likely to re-offend across the full range of offences.

**Table A2: Predicted re-offending rates for offenders based on identified alcohol need (average OGRS3 2 year rates by offence type and assessed alcohol need (2010))**

Offence Category	No alcohol need	Alcohol need	Differential
Theft and Handling	64.9%	79.2%	+13.3%
Burglary	65.6%	73.5%	+7.5%
Criminal Damage	59.2%	70.8%	+12.2%
Summary Motoring	59.0%	72.0%	+13.1%
Other Summary	53.6%	70.8%	+21.1%
Other Indictable	45.0%	66.8%	+17.8%
Violence Against the Person	46.2%	61.3%	+18.0%
Robbery	44.7%	57.6%	+13.3%
Drugs	36.5%	51.3%	+19.8%
Fraud and Forgery	31.7%	65.3%	+19.2%
Sexual Offences	29.1%	42.0%	+22.8%

Source: Ministry of Justice<sup>36</sup>

#### **Box A4: Central government's alcohol and sobriety pilots in England and Wales**

The Home Office and Ministry of Justice are launching pilots in England and Wales that will explore how alcohol-related sobriety orders might work. At present it is understood that the pilots will explore the use of a breathalyser testing schedule as part of a conditional caution and a mix of breathalysers and continuous alcohol monitoring (CAM) as part of the community sentence pilot.

Each of the pilots is intended to have up to 150 participants, and a number of areas across England and Wales have been selected to pilot the conditional caution and community sentence requirement. The legislation enabling the pilots outlines criteria for selection – including that the offender not be a dependent drinker and that the offence be alcohol-related.

The technology exists today to provide continuous alcohol monitoring of an offender, and the same equipment also incorporates home curfew (RF) technology. Continuous alcohol monitoring typically consists of a test every 30 minutes, 24 hours per day, and unlike breathalyser-based monitoring, ensures that no drinking events are missed.

The combination of CAM with a home curfew element could be used to develop graduated sanctions or to more cost-effectively deliver a community sentence with sobriety and curfew requirements.

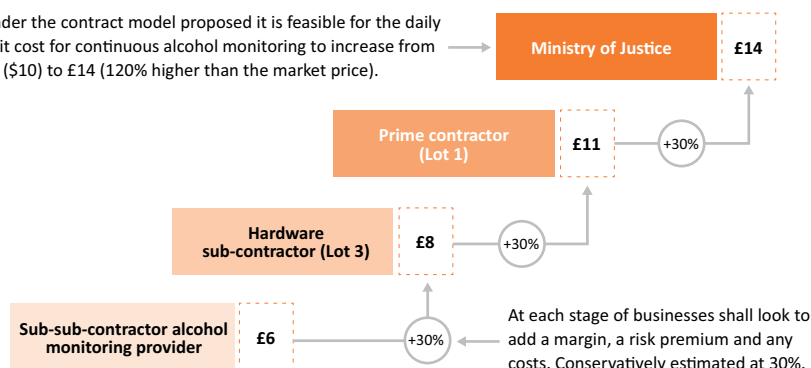
There is a real risk that the current procurement process will fail to ensure that alcohol-related EM technology is sourced in the most cost-effective way and that the use of CAM and related technologies could be unimaginative and exclude

<sup>36</sup> MoJ/NOMS OGRS3 2 Year Prison-based Scores (sample of 10,196 prison-based assessments in 2010)

professionals on the frontline. An artificially high price tag, will also serve to artificially constrain the market to the detriment of the public, practitioners and offenders.

**Figure A13: Artificially inflating the price of continuous alcohol monitoring**

Under the contract model proposed it is feasible for the daily unit cost for continuous alcohol monitoring to increase from £6 (\$10) to £14 (120% higher than the market price).



## Other court orders

There are a wide range of orders available to courts in relation to offenders and those engaging in anti-social behaviour. Electronic monitoring has the potential to better enable courts to ensure the conditions of any orders are enforced, in particular where the condition of the order is tied to the presence at or exclusion from a particular location or area. Consideration should be given to enabling courts to require such conditions to be electronically monitored.

### Box A5: Examples of electronic monitoring and other court orders

- **Gang Injunctions:** The Policing and Crime Act 2009 allows police and local authorities to apply to County Court for a gang injunction, prohibiting someone from being in a particular place, associating with particular individuals or requiring them to attend particular activities.<sup>37</sup>
- **Potential for Electronic Monitoring:** GPS tags could be used to monitor the location of offenders and compliance with any location-related requirements. If other gang members are tagged then non-association could also be more rigorously monitored and enforced.
- **Anti-Social Behaviour Orders/Criminal Behaviour Orders:** ASBOs and the proposed Criminal Behaviour Orders provide a mechanism by which individuals found to be engaging in anti-social behaviour can be restricted from doing something, such as going to a particular place.<sup>38</sup>
- **Potential for Electronic Monitoring:** GPS tags could be used to monitor the location of those individuals with an ASBO or CBO, providing more rigorous monitoring and enforcement.

37 <http://www.official-documents.gov.uk/document/other/9780108511288/9780108511288.pdf>

38 <http://www.official-documents.gov.uk/document/cm83/8367/8367.pdf>

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## Appendix B:

# Local Area Opt-Out Funding

If, as recommended, elected Police & Crime Commissioners are given the right to opt-out of a national tagging framework and instead control the funding to commission electronic monitoring services locally, the amount available would vary depending on the police force area and the size of the current tagged population. The following table provides an indicative summary of the local opt-out funding that could be available for PCCs to invest in their own EM services for local offenders.

The table provides an indication of the current electronic monitoring usage in each police force or criminal justice area, along with an estimate of potential opt-out funding value and potential number of tagged offenders.

Criminal justice area	Tagging spend (£m)		Tagged population	
	Current	Potential opt-out	Current	Potential
Avon and Somerset	£4.3	£12.2	900	2,600
Bedfordshire	£1.4	£3.9	300	900
Cambridgeshire	£1.3	£3.7	300	800
Cheshire	£1.8	£5.0	400	1,100
Cleveland	£1.7	£4.9	400	1,100
Cumbria	£1.5	£4.3	300	900
Derbyshire	£2.1	£5.9	400	1,300
Devon and Cornwall	£2.3	£6.6	500	1,400
Dorset	£0.9	£2.5	200	600
Durham	£1.2	£3.4	300	800
Dyfed Powys	£0.4	£1.2	100	300
Essex	£2.1	£6.1	400	1,300
Gloucestershire	£0.9	£2.5	200	600
Greater Manchester	£8.3	£23.6	1,700	5,000
Gwent	£1.3	£3.6	300	800
Hampshire	£3.1	£8.9	700	1,900
Hertfordshire	£1.6	£4.6	300	1,000
Humberside	£1.9	£5.4	400	1,200
Kent	£2.9	£8.2	600	1,800
Lancashire	£5.2	£14.9	1,100	3,200
Leicestershire	£1.4	£3.9	300	900
Lincolnshire	£0.9	£2.7	200	600
London	£24.2	£68.9	5,100	14,500
Merseyside	£4.8	£13.7	1,000	2,900
Norfolk	£0.7	£2.0	100	500
North Wales	£1.3	£3.8	300	900
North Yorkshire	£1.2	£3.4	300	800
Northamptonshire	£0.9	£2.6	200	600
Northumbria	£3.1	£8.9	700	1,900
Nottinghamshire	£2.5	£7.0	500	1,500
South Wales	£2.3	£6.6	500	1,400
South Yorkshire	£3.4	£9.6	700	2,100
Staffordshire	£1.6	£4.6	300	1,000
Suffolk	£0.7	£1.9	100	500
Surrey	£0.9	£2.5	200	600
Sussex	£1.9	£5.5	400	1,200
Thames Valley	£3.2	£9.0	700	1,900
Warwickshire	£0.4	£1.2	100	300
West Mercia	£1.6	£4.5	300	1,000
West Midlands	£7.2	£20.7	1,500	4,400
West Yorkshire	£5.8	£16.7	1,200	3,500
Wiltshire	£0.8	£2.4	200	500
<b>Totals</b>	<b>£116.9</b>	<b>£333.3</b>	<b>c.25,000</b>	<b>c.72,500</b>

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## Appendix C: Potential Crime Reductions

Following implementation of their C2 Programme, Hertfordshire Constabulary has achieved reductions in burglary offences of 15%. C2 sees GPS-based electronic monitoring integrated within offender management, in line with the proposals recommended in this report. If similar schemes were operated in other police forces and they were to achieve the same 15% reduction this would equate to:

Criminal justice area	Burglary offences	Reduction	Fewer burglaries
Avon and Somerset	13,446	15%	2,017
Bedfordshire	5,559	15%	834
Cambridgeshire	6,297	15%	945
Cheshire	7,668	15%	1,150
Cleveland	5,112	15%	767
Cumbria	2,070	15%	311
Derbyshire	7,979	15%	1,197
Devon and Cornwall	9,887	15%	1,483
Dorset	5,502	15%	825
Durham	4,735	15%	710
Dyfed-Powys	1,715	15%	257
Essex	14,011	15%	2,102
Gloucestershire	5,743	15%	861
Greater Manchester	30,318	15%	4,548
Gwent	5,291	15%	794
Hampshire	13,221	15%	1,983
Hertfordshire	7,102	n/a	n/a
Humberside	10,916	15%	1,637
Kent	12,097	15%	1,815
Lancashire	11,828	15%	1,774
Leicestershire	8,234	15%	1,235
Lincolnshire	6,222	15%	933
London*	96,477	15%	14,472
Merseyside	13,514	15%	2,027
Norfolk	4,260	15%	639
North Wales	5,391	15%	809
North Yorkshire	5,020	15%	753
Northamptonshire	5,899	15%	885
Northumbria	8,598	15%	1,290
Nottinghamshire	9,871	15%	1,481
South Wales	10,178	15%	1,527
South Yorkshire	16,749	15%	2,512
Staffordshire	7,509	15%	1,126
Suffolk	5,159	15%	774
Surrey	7,908	15%	1,186
Sussex	9,974	15%	1,496
Thames Valley	18,866	15%	2,830
Warwickshire	5,576	15%	836
West Mercia	8,417	15%	1,263
West Midlands	28,170	15%	4,226
West Yorkshire	33,261	15%	4,989
Wiltshire	4,658	15%	699
<b>Total</b>	<b>500,408</b>	<b>15%</b>	<b>75,061</b>