Intensive Supervision/ Electronic Monitoring/ GPS
Symposium on Alternatives to Incarceration

Olinda Moyd, Esq.
Chief, Parole Division
D.C Public Defenders Service
July 14, 2008

GPS
- A satellite tracking devise (traditionally used for helping people on the road)
- Many states have passed legislation to require certain individuals to wear GPS devises to record their movement and transmit information to police/supervision authorities in order to prevent those individuals from entering forbidden areas.
- Active vs. Passive - active monitoring means transmitter attached to the ankle sends signals to PO office or manufacturer center. Passive means monitoring all offender randomly.
- Used by authorities
  1). To enforce curfews
  2). To establish restricted areas
  3). To monitor movement in the community
**Targeted Populations**

- Populations targeted for GPS use include:
  - Sex offenders
  - DV cases
  - Gang members
  - Probationers
  - truants

**Effective use of GPS**

- Effective when used in lieu of prison
  - Less restrictive
  - Facilitate successful reentry
  - Encourages community connections

- Less costly
  - $30,000-$40,000 in prison vs. $3,400 a year on GPS
Challenges with use of GPS Equipment:

- Some problems with use of GPS equipment include:
  - Equipment failure/malfunction
  - Equipment tampering
  - Removal by subjects
  - Insufficient manpower to monitor (staffing)
  - Low battery/improper charging
  - Dead zones

- Overuse of GPS
- Illusory sense of protection
- Not prevent re-offending
- GPS not replace supervision but used as a supplement. Not a substitute for the human factor.
- There is little evidence that GPS without treatment and services does anything to change offender behavior.
Use of GPS by Supervision authorities:

- Goal of supervision to change behavior/GPS not prevent reoffending
- Even when violations reported there must be investigation of information to determine whether a violation has occurred
- Personal interaction is also needed to assure that offender reentry process is developing without incident – employment, living arrangements stable, void of drug use.

Use of GPS by supervision authorities:

- Locating affordable housing and finding steady employment are major challenges to successful reentry and GPS does nothing to address either issue.
  - Homelessness/public law placement
  - Skills training programs
- CSOSA uses GPS as graduated sanction for LOC, rearrest, sex offender cases and DV cases.
Impact of Overuse of GPS

- More costly to place persons on GPS who do not warrant monitoring
- Interfere with successful reentry
- Inhibit reconnection with community and family

Legal Challenges to GPS Use

- DP and 14th Amendment challenges to statues allowing GPS tracking
- In Katz v. U.S. the Supreme Court established that an individual has a right against unreasonable search and seizure in areas where he has an actual expectation of privacy. 389 U.S. 347 (1967).
- An offender on supervised release has a diminished expectation of privacy. U.S. v. Balon, 384 F3rd 38, 45 (2nd Cir. 2004).
- Statutes that impose GPS tracking on all offenders based on offense will likely face DP challenges based on the absence of individualized assessments.
Legal Challenges (Cont).

- Fourth Amendment challenges of unreasonable search and seizures prohibit tracking in areas where persons have expectation of privacy.
- Violation of DP rights to publicly stigmatize sex offenders without a hearing to assess their current level of dangerousness.
- Supervised release conditions, including GPS and restrictions on the right to travel, must be reasonably related to rehabilitating the offender and protecting the public. U.S. v. Monas, 213 F.3d 627 (2d. Cir. 1997).

Conclusion

- Authorities should promote adequate screening and not use blanket application of GPS.
- GPS programs need to be measured and evaluated routinely.
- There must be a case by case analysis to determine whether the GPS condition (or any condition) is reasonably related to the original offense and the goal of rehabilitation for that individual.
Conclusion

- One-size-fits-all supervision, including the use of GPS, does not work.
- GPS application decisions must be made with careful consideration. (dynamic not static factors)
- Overuse of GPS widens breach of legal challenges and gives an illusory sense of protection.

Future Issues re: Use of GPS:

- How far do we go with tracking of individuals? (human lojack)
- Who owns the information?
- Who is liable if recording is faulty?
- If we do not focus on changing behavior do we move towards placing persons on GPS for life?