

Intensive Supervision/ Electronic Monitoring/ GPS

Symposium on Alternatives to Incarceration

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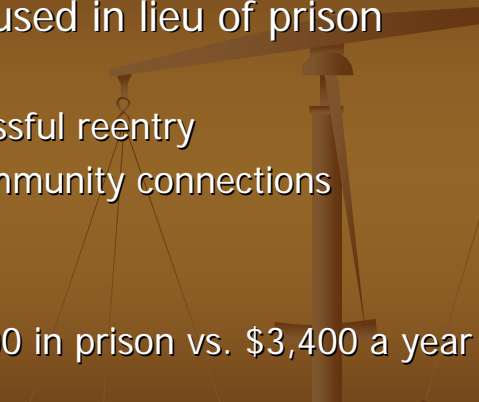
GPS

- A satellite tracking device (traditionally used for helping people on the road)
- Many states have passed legislation to require certain individuals to wear GPS devices 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
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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
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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

Challenges with use of GPS Equipment:

- 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 area 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?