



Electronic Monitoring Expanded to Target Communities' More Dangerous Offenders

at a glance

The Department of Corrections uses electronic monitoring to monitor the whereabouts of offenders on community supervision. Consistent with our recommendations, the department has evaluated electronic monitoring and found it effective in deterring crime and has discontinued use of Passive GPS technology.

While the Legislature appropriated over \$8 million for electronic monitoring in Fiscal Year 2006-07, the department spent less than half of this funding. Several issues have limited expansion of electronic monitoring. The department lacks the authority to revoke the supervision of offenders on electronic monitoring unless the offender is court-ordered to be monitored, but has not proposed legislation to remedy this problem. In addition, there are fewer Lunsford-eligible offenders on community supervision than projected, and judges are reluctant to expand use of electronic monitoring for some types of offenders.

Scope

In accordance with state law, this progress report informs the Legislature of actions taken by the Department of Corrections in response to a 2005 OPPAGA report.^{1,2} This report presents our assessment of the extent to which the department has addressed the findings and recommendations included in our report and examines the department's current use of electronic monitoring.

Background

The Department of Corrections' Office of Community Corrections is responsible for supervising approximately 150,000 offenders living in communities throughout Florida. The department uses electronic monitoring as a tool to enhance surveillance of selected offenders under community supervision. On June 30, 2007, the department had 1,415 offenders under electronic surveillance, representing 1.2% of the offenders under active supervision in the community.³

At the time of our 2005 report, the department used three types of electronic monitoring: an active Global Positioning Satellite (GPS) system, a passive GPS system, and a Radio Frequency system. The active GPS system tracks offender movements in real time and identifies offenders who enter specified exclusion zones, such as

¹ Section 11.51(6), *F.S.*

² *Electronic Monitoring Should Be Better Targeted to the Most Dangerous Offenders*, OPPAGA Report No. [05-19](#), April 2005.

³ Active supervised population does not include absconders or out-of-state offenders.

schools or public parks. When these violations occur an alarm notification is sent to the monitoring center and the offender's probation officer. The passive GPS system tracks offender movements but not in real time; each day the offender's probation officer receives reports of the previous day's movement. The radio frequency monitoring system uses an offender's landline telephone to monitor whether the offender is home at required times. As of June 30, 2007, most (89%) monitored offenders were supervised with the active GPS system.

In Fiscal Year 2006-07 the department paid vendors approximately \$2.9 million to track 1,814 offenders. For Fiscal Year 2007-08, the Legislature appropriated \$7,392,936 for electronic monitoring.

Prior Findings

At the time of our 2005 review, Florida law provided that electronic monitoring could be used on two types of offenders: those on community control and serious habitual and/or sex offenders.⁴ Our prior review found that the department was using most of its electronic monitoring resources to supervise the community control population although the habitual offenders had committed more serious crimes.⁵ This occurred because decisions to place offenders on electronic monitoring were made primarily at sentencing, and prosecutors and judges historically had used this technology with community control offenders. In addition, although the department had statutory authority to place offenders on electronic monitoring, the courts had ruled that failure to comply with electronic monitoring is not a violation of community control unless it is a court-ordered condition.⁶ As a result, the department was reluctant to place offenders on electronic monitoring without a court order.

⁴ Community control, imposed at sentencing, is a form of intensive supervised surveillance that restricts the offender's movement within the community.

⁵ Community control offenders are primarily property and drug offenders compared to the habitual or sex offender group, in which sex and violent offenses predominate.

⁶ Carson vs. State, 531 So.2d 1069 and Anthony vs. State, 854 So.2d 744.

To better use electronic monitoring resources, we recommended that the Legislature consider modifying the *Florida Statutes* to provide that electronic monitoring is a standard condition of community supervision used at the department's discretion. This would address the department's concern that electronic monitoring be specifically stipulated in the court order, and would allow it to revoke supervision if the electronic monitoring condition was violated. If given this expanded authority, we recommended that the department use its offender risk assessment instrument to prioritize the use of electronic monitoring by placing the most dangerous offenders under supervision.

We also recommended that the department assess the effectiveness of electronic monitoring in deterring crime for all types of offenders, and compare the effectiveness of active GPS and radio frequency monitoring for differing types of offenders. We also recommended that the department discontinue using passive GPS as it is relatively costly and of limited value. These funds could then be redirected to active GPS monitoring.

Current Status

Since the publication of our 2005 report, the Legislature has substantially increased funding for electronic monitoring under the provisions of the Jessica Lunsford Act. As a result, more offenders are placed on monitoring and the number of dangerous offenders on monitors has increased. However, the department has given back a large portion of these funds. The department has studied the effectiveness of electronic monitoring and has terminated its passive GPS system.

More offenders are now eligible for electronic monitoring, but resources are underutilized

Since 2005, the Legislature has expanded the pool of eligible offenders for electronic monitoring. Chapter 2005-28, *Laws of Florida*, also known as the Jessica Lunsford Act, requires the courts and the Parole Commission to impose electronic monitoring for certain offenders placed on conditional release supervision.

Also, it is requiring the court to order electronic monitoring for designated sex offenders and predators that violate probation and community control. In addition, selected probation and community control offenders whose crimes occurred after September 1, 2005, are now subject to mandatory electronic monitoring. These electronic monitoring sanctions are non-discretionary, meaning the court and Parole Commission must order eligible offenders to receive these sanctions.

As a result of this legislation, the proportion of dangerous habitual offenders placed on electronic monitoring has increased. As of June 2007, 53% of offenders on electronic monitoring were sex offenders, while at the time of our previous report they accounted for only 30% of the offenders under surveillance.

Nevertheless, the department has given back much of the funding appropriated for electronic monitoring. According to department officials, the department returns approximately \$4 million of its electronic monitoring appropriation annually to general revenue. For Fiscal Year 2006-07, \$4.5 million of the funds appropriated for electronic monitoring were unused. The department cites four primary reasons for not spending these funds: (1) fewer Lunsford Act offenders are eligible for electronic monitoring than projected, (2) the department has not sought to increase its electronic monitoring authority, (3) judges are reluctant to increase use of monitoring unless required by statute, and (4) additional officer workload precludes significant expansion of electronic monitoring.

Increased funding for monitoring exceeded the number of Lunsford Act offenders eligible. The Legislature appropriated \$8 million for Fiscal Year 2006-07 and \$7.4 million for Fiscal Year 2007-08 to monitor offenders.⁷ The Legislature based this appropriation on an estimated 1,200 Lunsford Act offenders on electronic monitoring; however, only 431 such offenders were in the community and eligible for monitoring devices on June 30, 2007. The department will likely refund a substantial proportion of its

⁷ The funds appropriated are for electronic monitoring of offenders on probation and community control and serious habitual and/or sex offenders including Jessica Lunsford Act offenders. The amount estimated for Lunsford Act offenders is \$3.9 million.

electronic monitoring appropriation for Fiscal Year 2007-08.

The department has not sought a statutory change to enhance its electronic monitoring authority. The department has not pursued a statutory revision to obtain authorization to revoke probation of offenders who violate department-ordered electronic monitoring. The department believes that electronic monitoring is a high liability program and its use can best be determined at the time of sentencing by a judge.^{8,9} In addition, since the department relies on the sentencing authority (courts or Parole Commission) to make the electronic monitoring placement decision, the department argues that it does not need to use a risk assessment instrument for prioritizing electronic monitoring units.

Despite the department's concerns, we recommend that the department pursue a statutory change to enhance its authority to place and remove offenders from electronic monitoring. Florida's citizens could benefit from enhanced monitoring of dangerous offenders in the community, particularly when the Legislature has appropriated the funding for this purpose.

Judges are reluctant to apply electronic monitoring across the board. While judges are ordering electronic monitoring for new Lunsford Act cases, they are not routinely imposing electronic monitoring on other eligible offenders. Judges we interviewed stated that while they impose electronic monitoring in cases in which the statutes order it, they were reluctant to regularly order it as part of community control supervision unless an offender presents an unquestionable risk to the public or fails to abide by curfew restrictions. Judges cited the frequent technical violations that occur with monitoring and the system's cost to the offenders, many of whom are indigent, as reasons for not regularly ordering electronic monitoring.¹⁰

⁸ Section 945.1405, *F.S.*, authorizes the Parole Commission to order electronic monitoring for conditional release supervision.

⁹ The department believes that by monitoring the movement of an offender they collect large amount of private information and they are liable for examining this information and respond appropriately.

¹⁰ The department charges probationers \$6.94 daily for the active electronic monitoring surveillance. That is the same amount the vendor charges the department for the equipment use.

The judges noted that relatively minor monitoring violations can result in the re-incarceration of offenders for technical infractions.

The department cites workload as a constraint to expanded electronic monitoring. The department asserts that it would have difficulty expanding electronic monitoring because the funds currently appropriated may only be used for equipment purchase or lease. The department notes that the technology increases probation officer workload due to the need to respond to monitoring alarms. To address this problem, the department is negotiating for vendor-staffed monitoring centers and upgraded equipment. The vendor-staffed center would handle most offender-generated GPS alarm notifications, alleviating workload from probation officers. The cost of this enhanced service will be approximately \$2 per day per offender. In addition, both current vendors have released upgraded GPS tracking devices that will improve offender tracking and violation reporting. These new devices will cost an additional \$1 per day, which the department plans to pass on to the offenders. The department should study the effects of these technology enhancements on its probation officer workload and report these findings to the Legislature to aid in its future budgeting and policy decisions.

The department studied the effectiveness of electronic monitoring

Consistent with our recommendations, in February 2006, the Department's Bureau of Research and Data Analysis in conjunction with the College of Criminology and Criminal

Justice at Florida State University released a study of the effectiveness of electronic monitoring.¹¹ The study concluded that the electronic monitoring is effective for serious, violent offenders in the community and prevents new offenses and absconding and may provide better protection of the public's safety than community control without electronic monitoring. For example, offenders on radio frequency monitoring were 95.7% less likely than offenders on home confinement without electronic monitoring to be revoked for a technical violation.

The department and the College of Criminology and Criminal Justice at Florida State University have received a National Institute of Justice grant to evaluate the effectiveness of electronic monitoring for high-risk sex offenders and its cost-effectiveness as an alternative to incarceration.

The department has discontinued the use of passive GPS

As we recommended, in April 2006, the department discontinued using its passive GPS system and transferred about 20 offenders on passive GPS monitoring to the active GPS system. Funds not utilized for this service were allocated to the other two types of electronic monitoring.

¹¹ Padgett, K., Bales, W. and Blomberg T. "Under Surveillance: An Empirical Test of the Effectiveness and Consequences of Electronic Monitoring," *Criminology & Public Policy*, Volume 5 Issue 1, February, 2006.

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