

Location Monitoring for Low-Risk Inmates—A Cost-Effective and Evidence-Based Reentry Strategy

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COMMUNITY CORRECTIONS' CENTRAL focus during the past decade has been the adoption of evidence-based practices. Federal community corrections has been no exception to this trend. Promising research has renewed interest in the possibility of reduced recidivism through offender behavior change. Simultaneously, at the local, state, and federal level, decision-makers have realized that seemingly ever-growing inmate populations and budgetary pressures have become unsustainable. Thus the possibility of reducing recidivism and costs by shifting resources away from incarceration to community-based correctional solutions has prompted innovation. It is in this environment that the federal location monitoring program has recently been re-conceptualized.

Central to evidence-based practice in corrections are the principles of risk, need, and responsivity. As articulated by Andrews and Bonta,¹ the first of these, the risk principle, posits that we should focus our interventions on higher-risk offenders, who are the most likely to realize a reduction in recidivism. The risk principle further emphasizes that exposing lower-risk offenders to unneeded interventions can actually make them more likely to recidivate, both through exposing them to higher-risk peers and by attenuating pro-social ties. The risk principle underlies the need to differentiate any correctional population by risk level. The Bureau of Prisons (BOP) has done that for decades, specifically relying on its Security and Designation instrument, an actuarial risk prediction tool

that informs initial designation and ongoing re-assessment of the security risk posed by each of the BOP's 215,000 inmates. Currently, the BOP identifies 17.4 percent of its 215,000 inmates as posing a minimum security risk. Nearly 40 percent of inmates are designated as "low" risk.² According to the federal probation system's risk assessment tool, the Post Conviction Risk Assessment (PCRA), approximately 40 percent of federal offenders are at low risk to recidivate.

Background

Use of home confinement with federal offenders was introduced in 1986, when the United States Parole Commission and the Administrative Office of the U.S. Courts (AO) experimented with the "Curfew Parole Program." Driven by deficit reduction legislation, the program relied on officers conducting curfew telephone calls and having weekly in-person contacts. The ability of officers to adequately monitor offenders became a concern. In a 1988 pilot study between the BOP and the AO, the first offender was released on curfew parole with electronic monitoring. In 1989, the federal Judicial Conference Committee on Criminal Law expanded the program to 12 districts and also authorized electronic monitoring for federal offenders on supervised release and pretrial defendants. The program expanded nationally in 1991. The first national contract for services was

awarded in 1993 (*Guide to Judiciary Policy*, Vol. 8; Part F; Sec. 150; hereafter, *Guide*).

Over time, the breadth of technologies for monitoring offenders remotely greatly expanded, including the ability to track offenders beyond just determining if they were inside their residence. In 2009, the home confinement program was renamed the location monitoring program to reflect the full array of technologies available in the program.³ The program now provides officers with greater options for mitigating offender risks, providing supervision structure, and detecting various patterns of behavior. The variety of technologies helps officers better allocate their resources, avoiding over-supervising low-risk offenders or under-supervising higher-risk offenders (*Guide*, Vol. 8; Part F, Sec. 160).

There are many misconceptions about what location monitoring can and cannot do. The technology does not allow officers to intercept bad behavior before it happens. It does, however, provide a wealth of information about patterns of behavior that can be used to address offenders' accountability and improve supervision (*Guide*, Vol. 8; Part F, Sec. 415). Location monitoring should be viewed as an opportunity to remove and limit opportunities

¹ Andrews, D., & Bonta, J. (2010). *The psychology of criminal conduct*, 5th ed. New Providence, NJ: Anderson Publishing.

² According to the BOP website February 27, 2014, the inmate population is 215,482, of whom 36,134 (17.4 percent) are designated as at a "minimum" security level. Additionally, 82,550, or 39.8 percent, are rated at a "low" security level.

³ Current technologies include automated voice verification systems, for low-risk offenders; radio frequency systems that confirm an offender's presence at an authorized location; passive global positioning systems that record offenders' locations and later download tracking data; and active global positioning systems that provide continuous tracking and allow for inclusion and exclusion zones. Additional systems have the ability to remotely monitor an offender's alcohol use, either through breath samples or through transdermal collection.

for offenders to engage in maladaptive behavior while simultaneously providing the officer with an opportunity to focus on teaching proven success-building skills. For example, location monitoring can be used to provide a period of containment to limit an offender's access to high-risk people, places, and things. It can also be used to gather information that can aid an officer in giving positive reinforcement when an offender adheres to a specified schedule or a pattern of travel (*Guide*, Vol. 8; Part F. Sec. 563). As of May 2014, there were approximately 6,500 federal offenders and defendants on location monitoring.

The authority to use location monitoring for BOP inmates is found under Title 18 U.S.C. 3603(6) and 3624 (c)(3).⁴ Location monitoring does not change offender behavior; in the context of BOP inmates, it simply allows them to complete the term of imprisonment imposed by the sentencing court. Before the interagency requirement was revised in 2010, BOP policy precluded participation unless an inmate had twice been refused housing in a contracted residential reentry center. These were typically very high-risk inmates. Not surprisingly, few probation offices were inclined to accept these referrals when they were already rejected by semi-custodial Residential Reentry Centers (RRCs).

Over time, increasing population pressures and the mounting research supporting the risk principle prompted a reassessment of the program. The BOP population increased from approximately 25,000 inmates in 1989 to 215,000 as of 2014. The costs of confinement have been equally staggering. BOP funding continues to consume an increasing percentage of overall DOJ funding, a reality that has become a foremost concern for the Attorney General and has contributed to the Attorney General's recent Smart on Crime initiative.

Revised Interagency Agreement

In 2010, BOP and AOUSC officials began discussing how closer collaboration could be informed by evidence-based practices, specifically the risk principle, and also save money. Allowing minimum-risk inmates to release directly to their communities on location

monitoring and onto supervision by U.S. probation officers freed up RRC space for higher-risk offenders who have a greater need for services and assistance in transitioning back to the community. This was particularly important because the Second Chance Act of 2007, which was signed into law by President Bush in April 2008, had increased from 6 to 12 the number of months of their sentence that inmates could complete in an RRC. Additionally, available RRC beds are also very useful as an intermediate sanction for offenders who violate the conditions of their term of Supervised Release (TSR) and Probation.⁵ The following conveys the core of the interagency agreement:

- A. The Federal Location Monitoring (FLM) program provides a cost-effective alternative for those inmates posing a lower risk to the community and requiring fewer services than those inmates completing their sentence in the RRCs. Under Title 18 U.S.C. 3603(6) and 3624 (c)(3), the U.S. probation officers assist in the supervision of, and furnish information about, and, to the extent practicable offer assistance to prerelease inmates, who are allowed to participate in the FLM program.
- B. BOP identifies potential participants for whom a period in the FLM program would afford an appropriate level of accountability and a reasonable opportunity to adjust and prepare for reentry into the community.
- C. Ordinarily, inmates must be classified at a minimum-security level.
- D. Inmates with any identified public safety factor (such as disruptive group, violent behavior, threat to government officials) will ordinarily be precluded from participation.
- E. The BOP institution will refer the inmate to the Residential Reentry Manager (RRM), who will determine if the inmate is suitable for placement.
- F. POs will report serious incidents of noncompliance that they become aware of, such as drug use, absconding, or any new criminal conduct within 24 hours.

- G. Both U.S. probation and the RRM are authorized to terminate an inmate's participation in the program.
- H. Inmates will ordinarily be required to pay for all or part of the cost on the program.
- I. Some participants may require limited medical assistance; major medical expenses will require termination from the program.
- J. The full range of location monitoring technologies can be used at the discretion of the USPO.

This agreement is updated annually to allow for changes in projected costs due to an increase in the number of BOP referrals and the number of courts willing to participate in the program. Since being redesigned, the BOP LM program has steadily increased. The cost-effectiveness argument for expanding BOP location monitoring is compelling. It currently costs the BOP on average \$67 per day per inmate placed in the RRC. In contrast, it costs the BOP \$15 per day per inmate to reimburse the AO for the cost of LM and supervision services, a differential of \$52 per day per inmate.

Another cost-benefit of the program is a high rate of inmate co-pay, which means the district does not have to cover as much of the upfront cost of the location monitoring. In the fourth quarter of 2013, the BOP paid \$17,750 for the location monitoring services, while inmates paid nearly \$24,000.

During the first two quarters of fiscal year 2014, there were on average 93 offenders in the program; the cost of supervision and location monitoring for the two quarters was \$528,000, to be paid by the BOP to the AO. If these same inmates had been placed in RRCs, it would have cost the BOP approximately \$2.7 million. The difference between these two amounts, \$2.2 million, is the savings realized by the government. Potential savings this entire fiscal year will reach approximately \$4.5 million.⁶ It has recently been estimated that as many as 1,000 inmates per year might meet both the current statutory requirements as well as the interagency agreement terms to be eligible for participation.

⁴ Pursuant to 18 U.S.C. 362(c)(2), "the authority under this subsection may be used to place a prisoner in home confinement for the shorter of 10 percent of the term of imprisonment of that prisoner or 6 months." There is currently draft legislation that would extend the time frame for home confinement up to 12 months, consistent with lengths currently allowed for inmates in Residential Reentry Centers (RRCs).

⁵ RRCs' primary obligation is to accommodate inmates exiting BOP institutions, so beds for TSR and probation violators are very limited. If placement in an RRC successfully addresses offender noncompliance, it prevents revoked inmates from adding more to the BOP's population pressures. The downside for RRCs, however, is that the inmates they receive may require a greater level of service.

⁶ The costs of probation supervision and location monitoring are calculated annually. The AO submits invoices quarterly to the BOP based upon workload data captured in the Probation Automated Case Tracking System (PACTS). Courts earn statistical credit for BOP inmate cases in the same manner as they would for any other offender on regular supervision. No funds are transferred between the BOP and individual probation offices.

Despite the compelling business case for the BOP location monitoring program, it has yet to reach its full potential. Several obstacles quickly became apparent when the program was initiated. The federal courts have recently faced unprecedented budgetary cuts, which present a challenge. Some chiefs have been reluctant to accept any extra workload. While courts are funded for staffing for BOP inmates in the exact same fashion as they are funded for offenders who commence their term of supervised release, some are disinclined to assume the workload until they must. Additionally, rare but egregious supervision failures on location monitoring may also encourage caution. Finally, a structural limitation is that inmates may only serve up to 6 months on location monitoring, as opposed to up to 12 months in an RRC.⁷ Eager to leave the institutions, inmates will often opt for RRC placement over location monitoring.

⁷ Current draft legislation in the U.S. Senate would extend the time allowable for location monitoring placement up to 12 months, the same as for RRC placement.

Moving Ahead

As of the fourth quarter of fiscal year 2013, a total of 46 districts were participating in the program.

Top Five Participating Districts

District	Inmate Days on LM
South Carolina	1,504
Oklahoma Northern	1,492
Florida Middle	1,374
Virginia Western	1,018
Pennsylvania Eastern	996

There has not yet been an opportunity to formally evaluate the recidivism rates of the inmates released on location monitoring, but PPSO may do so in the near future. Anecdotally, at least, inmates participating in the program have transitioned smoothly from completion of their sentence to onset of their term of supervised release. As the risk principle dictates, inmates who have been assessed as posing minimal risk to the community (most of whom are generally housed in BOP camp facilities) require minimal intervention

to address criminogenic risk. Placing them sooner rather than later into the community—where they can re-establish pro-social ties and become self-supporting—helps both them and the system. Exposing these inmates to higher-risk peers through RRC placement can make them more likely to recidivate; anti-social peers is a major driver for recidivism for federal offenders.⁸ The risk principle is clearly applicable to the location monitoring program. What is also particularly notable is the program's cost effectiveness. The business case for the program is overwhelming. The federal criminal justice system can clearly shift resources away from incarceration to community-based correctional solutions while at the same time saving money and not putting the community at risk. The BOP location monitoring program may one day be recognized as an early, brave step toward cost-effective and evidence-based reentry.

⁸ As of May 2014, 79 percent of federal offenders were identified as having criminal peers as a risk factor.