

# Would You Like An Ankle Bracelet With That?

## Winners and Losers in Electronic Monitoring

JAMES KILGORE

*Ankle bracelets* are almost fashionable these days. Martha Stewart wore one on her television show. Lindsay Lohan and Paris Hilton may have converted them into a rite of passage for inebriated starlets. In fact, Chanel's 2008 spring show featured ankle pouches shaped like Lindsay's bracelet in bright yellow, prompting outrage from a few law-and-order-oriented fashionistas.

But ankle bracelets are not about glamour. I spent a year on an ankle bracelet as a condition of my parole. For me and for most of the 150,000 to 200,000 people who go through each day with this technology strapped to their ankles, the media portrayals of electronic monitoring ("EM" as researchers and some parole officers call it) fail to resonate. Even further off the mark are claims from commercial promoters and policy analysts, such as UCLA's Mark Kleiman, who assure us that with EM "you can fully punish him [a convicted person] for what he did in the past and prevent him from what he might do in the future—without paying his room and board." Kleiman and others see electronic monitoring as a sort of panacea for the problems in our prison system—a low-cost, technologically smart way to ameliorate state budget crises, ensure public safety, and give "criminals" a chance to put their life back together. This marketing talk makes it all sound like that unattainable cliché—a win-win situation.

I'm at least in agreement with half of that win-win scenario. An increase in the use of EM will produce some winners. Let's take, for example, BI Incorporated, the largest provider of ankle bracelets and monitoring programs in the United States. Founded in the late 1970s

and recently bought out by private-prison powerhouse the GEO Group, this Colorado-based firm has contracts with some nine hundred law enforcement and corrections agencies across the country. In 2009, BI signed a five-year contract with Immigration and Customs Enforcement (ICE) for \$372 million to provide ankle bracelets for 27,000 people awaiting immigration hearings. Clearly, a winner in this game.

What I'm not so sure about is the other side of the equation, those who actually walk around with that black box on their leg, apart from the aforementioned stars. For Paris and Lindsay, GPS jewelry provides a get-out-of-jail-free ticket, not counting the lawyers' fees, of course. But those are the rich and famous. They're different from the rest of us—they have more money.

For those of us of lesser means, a simplistic and not totally wrong assessment would be that being on the electronic tether is still much better than being in a cell. Having spent six-and-a-half years living in a concrete and steel box, I agree. The problem is, as with most things in the criminal justice system these days, it's just not that simple, and nothing is win-win.

To illustrate this, let's go back to the case of people on parole. Before EM, people on parole had relative freedom. They might have to report to their parole officer (P. O.) once a week, get an occasional surprise home visit from the authorities, and be barred from leaving their county without permission. But on a day-to-day basis, they were free to visit friends, rush to the hospital if their wife went into premature labor, attend the performance of their daughter's school play. If they got the urge for adventure, they could decide to walk around the block or drive to the store and buy

a quart of milk, even a can of beer. No more.

Nowadays, the person with the ankle bracelet lives under a rigid regime. Let me paint the picture. On the technology side, the person wears a lightweight black box about the size of two packs of cigarettes all day, every day. It's not a particularly physical nuisance other than that you can't take a bath or go swimming with it, and when you get in bed there's a definite sensation that your parole officer is lying there under the sheets, watching your every move. The ankle bracelet comes with a bigger box that usually connects you to the authorities through a land line. With some systems, though, the person on parole has to carry this bigger box all the time and may have to stop at some points to plug it in to recharge the battery.

### House Arrest: The Default Position

The key thing to remember with all electronic monitoring programs is that the default position is house arrest. Unless people on parole have permission for a "move" from their parole officer, they have to remain in the house. To many people, this probably sounds fair and reasonable, in the interests of public safety. In fact, it's the opposite. If you want people to avoid getting re-involved in criminal activity, you have to give them the opportunity to change their life, not keep them chained to their living room. As a friend who spent time on an ankle bracelet told me, "When we're on parole, we need as much freedom as we can get to get our crap together."

And it's hard to get your crap together when you're under house arrest. Consider that most people on parole are men who have spent many years in a closed-in, hyper-masculine environment. When they leave prison, they typically enter a life of poverty with a very limited set of job skills and work experience. To make matters worse, many job applications include the infamous "box," where people must indicate if they've had a felony conviction. For people on parole, the box is a lose-lose proposition. If they answer yes, they don't get the job. If they lie and get the job, then they've got another set of problems, especially since their conditions of



Ankle electronic monitoring device

parole will usually compel them to inform their employer of their parole status and give the authorities the right to search the workplace at any time of day.

The case of Michigan resident Craig LeRoy Atkins provides an extreme example of the thin margin of error for those on parole with EM. In mid-2010, the *Detroit Free Press* reported that Atkins, released after serving twenty-one years for murder, landed a job with a construction firm for \$26 an hour. In addition to holding down this position, he enrolled in a community college paralegal course. Not long after he started work, parole officials added an ankle bracelet to his regime. His device included a four-inch, cube-shaped black box which had to remain near him at all times. His employer, while sympathetic to people on parole, was unwilling to accept the box at the workplace, arguing that it created a safety hazard on construction sites, which could have insurance implications. Atkins lost the job. "It's almost like they want me to start selling drugs again," Atkins told Jeff Gerrit of the *Free Press*.

Perhaps "they" got what they wanted. Less than a year after being fired from his construction job, Craig Leroy Atkins lay dead on the street from a single bullet through the chest, apparently once again immersed in "the life." In the last story about him to reach the

media before his death, Atkins complained that the GPS monitoring was blocking his opportunity to find a job.

Although there is no visible cause-and-effect relation between GPS monitoring and Atkins's killing, it is not hard to imagine the constraints he faced in the state with the highest unemployment rate in the country. Like most people on parole, Atkins would have landed in the growing pool of precarious workers, hustling for short-term opportunities in the dream of something permanent. But with an ankle bracelet, he couldn't respond to a short-term request for an interview, hire out for day labor, work unplanned overtime, change his shift hours at the last minute, or do jobs like yard maintenance or house cleaning that require constant movement from one address to another. Some P. O.s even require a phone call every time a person leaves or returns to the house. A person on EM has no competitive edge.

Nor could Atkins rely on the welfare system as a backup. Most states or local authorities ban those with convictions from living in public housing, receiving food stamps, applying for student loans, or accessing other forms of aid. Only the strong and the very lucky survive. Atkins didn't.

### **Building Relationships While on EM**

A similar dynamic applies in how EM affects building relationships with friends and family. Let me tell a story from my own experience. One night about 2 a.m. my then-ninety-six-year-old mother phoned me from her apartment. She said she was having chest pains, thought it was a heart attack, and had already called 911. Because she lived only about ten minutes from my house, my first impulse was to jump in the car and rush to her side. Instead, I went to the phone and called the 800 number they gave me for communicating on all matters related to my ankle bracelet. After gritting my teeth through fifteen minutes of a Kenny G recording interspersed with messages reminding me how much they valued my call, I reached a young woman operator. In robotic tones, she asked for my name and parole number. Formalities dispensed with, I told her my story. When I

got to the part about the heart attack her façade cracked for a moment. "Oh, my God," she said. My spirits rose. Then came the next question.

"Does she live with you?"

"No," was the wrong answer. The operator would have to contact my parole officer before she could give me permission to move. If I were a parole officer (and I'm glad I'm not), I wouldn't reply to much at 2 a.m. that didn't involve dead bodies or boatloads full of heroin, so not surprisingly I got no response from the required authority. I debated taking the law into my own hands, but decided that if my mother did survive the night, I'd be more good at her side than in the county jail. Fortunately, it wasn't a heart attack, and my wife was able to go to the hospital to comfort Mom. I stuck around the house until 6 a.m. when I had my next legal movement.

When I finally spoke to my parole officer and asked him if I could go to the hospital in such cases, he told me it was a "gray area." He didn't explain what that meant. I didn't ask. A person on parole knows that gray really means "no-go."

My story is far from the worst. Lots of people on parole have kids and other family members who don't live with them. Re-establishing these relationships and, more important, assuming responsibility for those relationships means spending as much time as possible with these people. When every encounter is punctuated with a time frame or the need to request movement, the person on parole becomes just too damned much trouble, not someone to count on. One friend of mine told me while on the bracelet he remembered "a period of three straight months that I never left the house because of the hassle and bullshit of attempting to even get movement."

With all these restrictions, there are dozens of innocent ways a person on an ankle bracelet can get in trouble. You can get sent back to prison because the bus bringing you back from work is late, because you get a flat tire, or if you can't pay the phone bill and they cut service. Your P. O. can put you on "lockdown" (can't leave the house) if the satellite loses the connection to your tracking device, which happens when it's very cloudy or simply because satellites sometimes just

have a bad day. Then there are times when parole officers have a bad day. Lockdowns are likely to follow.

In many ways, the ankle bracelet, especially with a parole officer who is either overworked (which most are) or a bit of what in prison we call a “hater” (which many are), is a set up. With so many rules, regulations, time frames, and technological glitches, the odds are against people making it through a year or two on an ankle bracelet without a violation. The system is set up that way. Recidivism, like electronic monitoring, produces winners, all those who earn a hefty slice of daily bread from mass incarceration. If people stopped going back to prison, guards, parole officers and even private-prison CEOs would find their jobs in jeopardy, just like teachers or auto workers. But the irrationality of electronic monitoring doesn’t end there. EM is also moving into new terrain.

**“Net-Widening”:  
The Search for New Markets**

People who study criminal justice sometimes use the term “net-widening,” meaning that a certain law or policy reaches out and pulls people into the world of jails and courts who previously wouldn’t have been involved. In the present situation, for winners in the electronic monitoring marketplace, net-widening is the name of the game. The idea is to identify more groups in need of the watchful eye of an agent of the state. Let’s have a quick historical glance at net-widening in the world of EM.

People released from prison with sex offense convictions were the pilot case. By putting them under electronic monitoring, the state was contributing to a shifting of the entire paradigm about this issue from the realm of psychological and mental health to one of control and protection. Never mind that family and friends commit at least two-thirds of sex offenses, the ankle bracelets reassure us that the perpetrators who wander the streets aimlessly in search of prey are on a leash. With the introduction of “exclusion zones” into many GPS systems, we can prevent these predators from going near a school or a park or perhaps prevent them from going any place at all. This is, after all, about public safety, not

rehabilitation of someone who may have done something of dubious criminality. The broad-brush category of “predator” doesn’t apply in all sexual offense cases. For example, some jurisdictions classify public urination as a sex offense. Consensual sex between a nineteen-year-old and a seventeen-year-old can also land a bracelet on a young person’s ankle. And in at least five states, people with certain sex offense convictions typically get electronic monitoring for life. Net-widening is about creating absolute categories, not judging individuals on their merits or crimes.

After tethering those with sex offenses, ankle bracelet promoters in Virginia, Florida, Arizona, and California turned their attention toward people on parole with a gang history. Glossing over the obvious racial implications that nearly all the groups they classify as “gangs” are black and Latino, they argued that monitoring these young people was supposed to keep them away from areas of criminal activity. Unfortunately, these are quite probably also the places where people on parole make the connections to transform their lives—the places where their families live, where they are most likely to find employment, go to church, or do whatever they need to establish a new life on the streets.

But perhaps those guilty of sex offenses and gang-related crimes are not the most worrisome examples. At least with them we are talking mostly about people with convictions for serious offenses. The problem is, the net is widening beyond the apparently guilty.

Let’s return to the case of undocumented people awaiting adjudication of their residence or asylum application. That \$372 million contract between ICE and BI Incorporated stipulates that by 2014 some 27,000 people in the midst of immigration litigation will be electronically tethered and subjected to other forms of surveillance. This is part of Homeland Security’s Intensive Supervision Appearance Program—ISAP (II). The complicating factor is that these 27,000 people haven’t been located yet. The market has to be created. But with the passage of draconian anti-immigrant laws in Arizona, Georgia, Alabama, and other states, it shouldn’t be hard to find them. No doubt

there's an ISAP (III) in the making to further widen the net and help BI remain a winner.

### Electronic Monitoring in Schools

Another group currently being ensnared are high school students with records of excessive truancy. Since the killings at Columbine High School in 1999 and the attacks of September 11, 2001, many schools have ramped up security. These security upgrades have brought metal detectors, searches, lockdowns, and Student Resource Officers, that is, cops on campus. One of the more recent innovations, particularly in urban schools with high black and Latino populations, has been the introduction of ankle bracelets for those who miss classes frequently.

A good example is Bryan Adams High School in Dallas. With a school population that is 85 percent black and Latino and 62 percent below the poverty line, Bryan Adams became an ideal pilot site. On the back of a \$26,000 donation from local citizen Bruce Leadbetter, the school began to tether many of its students with serious truancy records. Here's the description of the routine applied to one student, Fanny Aragon, from *Dallas Observer* reporter Sam Merten:

[The] monitoring system employs a cell phone and provides for constant surveillance via satellite, tracking Aragon's position within 5 to 10 feet of her location. The signal is picked up every 10 minutes and sent to a computer, but since most kids live close to school, each one is required to press a locator button...in case the signal is lost...Aragon does this three times a day: when she arrives at school in the morning, at lunchtime and after coming home for her obligatory 9 p.m. curfew when she receives an automated digital phone call that requires her to call back within three minutes. Upon returning the call, she must read a series of numbers, and the system recognizes her voice, which confirms her identity. If Aragon does not respond to calls or isn't where she's supposed to be, a Dallas County constable picks her up and brings her to court.

After the pilot, in an article in the *Journal of*

*Offender Monitoring*, one Peter Michel praised the success of the ankle bracelets in reducing absences. However, a closer examination of this program reveals the hands of those winners again—the companies selling this technology. The funder, Leadbetter, was a director of and major investor in iSecure Trac, one of the largest providers of electronic monitoring in the United States, while Michel was the company's CEO. This pilot was a marketing device aimed at convincing the education world that the complex problem of school truancy has little to do with poverty, family dynamics, or school curriculum and ethos and would yield to a simple technological solution. The idea seems to be gaining traction. In July of 2011, Texas governor Rick Perry signed truancy prevention amendments into law. These mandated schools to take serious measures against truancy that could include GPS monitoring. One of iSecureTrac's competitors, Aim Truancy Solutions, welcomed the bill and noted that its programs, already operating under the slogan "from monitoring to motivation" in several Texas school districts, would likely be in full compliance with the new law.

*Not surprisingly*, net-widening for electronic monitoring has not only hit immigration and schools. Many local courts are increasingly turning to ankle bracelets with house arrest as a way to solve the problems of jails overcrowded with traffic offenders, petty thieves, and people awaiting trial. Plus, EM offers a method of addressing cash flow issues. Access to the ankle bracelet is often tied to the ability to pay. A survey by researcher Peggy Conway revealed that in many jurisdictions people with DUIs, youth court cases, or those granted bail are only released on an ankle bracelet if they pay a daily fee for the services. Pennsylvania, for example, has made payment mandatory for all those on EM for DUIs. Conway found that daily charges ranged from \$1 to \$41. While states such as Arizona and California granted subsidies to low-income individuals, she found that in places like Hattiesburg, Mississippi, youths in detention could get out on EM only if their family could afford to pay the fees. Other jurisdictions

applied that same contingency. In other words, the winners, those with money, got out on ankle bracelets, which is still arguably preferable to jail, and the losers, those who were broke or unemployed, stayed in jail.

Creative municipalities apply more stringent financial formulae. For instance, in certain counties in Rhode Island as well as in Urbana, Illinois, people must remain on electronic monitoring until they settle their bill. While Arizona bans any profiteering from EM programs, Conway found that some municipalities found a way to become winners in their own right in this game—by setting the daily fees for EM high enough to add hundreds of thousands of extra dollars to the city's coffers from ankle bracelet tariffs. In some small towns, EM programs may be replacing police cars lurking at the city limits to catch speeders as a source of local revenue.

#### The Future of EM

Perhaps the most difficult question is figuring out what the net will cover next. *Slate* journalist William Saletan has suggested, "As GPS gets cheaper, politicians will be tempted to order it not just for people who would otherwise be jailed, but for those who wouldn't." Florida recently passed a law requiring those receiving state assistance to undergo periodic drug testing. In other areas, food stamp payment in the form of a smart card is in the works—a technological tool to

limit the range of items the user can buy. Is the day that far away when advocates of electronic monitoring begin to propose that taxpayers have a right to know the movements of those who rely on government allocations for their monthly TANF or disability payments?

Saletan raises an even scarier possibility. He pointed out that since some GPS wearers cut the ankle bracelets off, "the next step may be GPS implants." This suggestion reminded me of my time in California's High Desert State Prison. Every year we had a lockdown day during which each person was given an injection to test for TB. Lots of my fellow penitentiary dwellers believed the nurses were actually shooting little computer chips under our skin so they could keep track of us, maybe read our minds. I always argued with them, telling them how the threat of TB was genuine, that this was one time they should have a little faith in the system. I still think I was right to confront their paranoia. I don't believe Saletan's worst fantasies are in the pipeline yet, but I do worry that some people will stop at nothing to become a winner.

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