

Department of Community Justice

Director's Office



501 SE Hawthorne Boulevard, Suite 250
Portland, Oregon 97214
(503) 988-3701 phone (503) 988-3990 fax

TO: Chair Kafoury, Commissioner Meieran, Commissioner Jayapal, Commissioner Vega Pederson, Commissioner Stegmann

CC: Kimberly Melton, Chief of Staff, Peggy Brey, Chief Operating Officer

FROM: Erika Preuit, Director

DATE: October 20, 2020

SUBJECT: FY 2021 Budget Note: DCJ Program Offer #50029 Adult Electronic Monitoring

The information below is in response to a Budget Note submitted as part of the FY2021 Adopted Budget.

How electronic monitoring is utilized

Electronic Monitoring (EM) allows staff to monitor the activities of pre- and post-adjudicated individuals. DCJ uses two main kinds:

1. Monitoring location by using Global Positioning System (GPS). This includes:
 - house arrest,
 - curfew monitoring, or
 - movement in the community.
2. Monitoring alcohol consumption. DCJ uses a product called SCRAM.

EM technologies are useful case management, accountability, and public safety tools that allow for a broader range of responses to non-conformance and an alternative to more expensive incarceration during pre-adjudication and post-conviction. Utilizing EM and Global Positioning Software (GPS) technology to monitor the movements of justice-involved adults within the community has proven to be a reliable, cost-effective way to sanction individuals and reinforce public safety and the safety of victims.

Use of EM pre-adjudication:

EM can be used by defendants who have been released to the Pretrial Services Program (PSP) and usually ordered by the Court.

PSP has two primary goals: to protect community safety by evaluating the risk of releasing defendants prior to trial and supervising them in the community to ensure that they appear at scheduled court hearings. PSP supervision allows defendants an opportunity to remain employed, in school, or continue any medical services (drug/alcohol/mental health treatment). Defendants are monitored through a combination of phone contacts and office appointments.

EM can be used for pretrial populations where an identifiable victim is listed in the pending court matter. Some other similar applications might involve some geographic restrictions that should also be linked to potential or already identified victims.

Use of EM post-adjudication:

GPS allows parole-probation officers (PPO) to know where high risk justice-involved individuals (JIIs) are located at any given time. They can be placed on EM as a condition of supervision or as a sanction based on a violation. It is used as a containment tool to track high risk behavior. Specifically, it can be used effectively to track movement, monitor inclusion and exclusion zones, monitor curfews and gather information regarding activity and location. It is not a tool intended to change behavior. The EM program is staffed by Correction Technicians (CTs) who monitor compliance by tracking movement of GPS and communicate violations to PPOs.

Judges are also able to place JIIs on EM. Examples of this come from expectations set from various specialty courts. These include Sanction, Treatment, Opportunity, and Progress (STOP) Court; Mental Health Court; Success Through Accountability, Restitution, and Treatment (START) Court; and DUII Intensive Supervision Program. EM can be a condition set at sentencing. In addition, the data suggests that EM is a common condition for JIIs who are part of the Multnomah County Justice Reinvestment Program (MCRJP).

DCJ use of Electronic Monitoring

Pre-adjudication:

From January 1-December 31, 2019 DCJ referred 157 pre-adjudicated (pretrial) defendants to receive electronic monitoring services. The total number of defendants released to pretrial supervision during this time was 2,948.

Below is a specific breakdown.

Type of EM	Total referrals
SCRAM bracelet (alcohol)	76
GPS Tracking	56
Mobile Breath Alcohol	10
Clients with 2 Devices	10
Clients on twice	5
Total	157

We partner with Vigilnet for these services who provided the above data. They informed us that they do not currently keep demographics on race and gender in their database so we are unable to provide demographic breakdown of those on EM pre-adjudication.

Post-adjudication:

From January 1-December 31, 2019 DCJ referred 1,211 JILs post-adjudication (968 unique individuals). This is 9% of unique individuals on supervision on Electronic Monitoring. There were 11,164 unique people on active supervision during this time period.

The next page presents a breakdown of the various DCJ units who utilized EM.

Court Units (<i>EM is ordered as a condition by the Court</i>)	Total Referrals
Driving Under the Influence of Intoxicants (DUII)/ DUII Intensive Supervision Program (DISP) (SCRAM)	34
Interstate Compact	11
Multnomah County Justice Reinvestment Program (MCJRP)	176
START Court	53
<i>Court Units total</i>	<i>274</i>
ASD Units	
African American Program	20
Domestic Violence Unit	202
Gang Unit	237
Generic East Supervision Unit	127
Mental Health Unit	57
Reduced Supervision Unit	10
Sex Crimes Unit	56
Short Term Trans Leave - STTL (Adults in Custody receive 90 days early release from prison)	102
Southwest Supervision Unit - Generic	50
Women and Family Services Unit	76
<i>ASD Units total</i>	<i>937</i>
Total	1211

In general, the use of post-adjudication EM with ASD is grouped into 3 categories:

1. Preventative Condition:
Roughly 81% of the EM referrals fall into this category.
Preventative condition is ordered "Per PPO" by the releasing authority (Courts or Board of Parole) and is a condition to be used at the officer's discretion at any time. This is usually associated with preventing contact with known victims, places, or geographic locations or from using alcohol.

2. Intervention to violation:
Roughly 5% of the EM referrals fall into this category.
This is in response to a violation of supervision and is usually a GPS open-ended "condition" that is added to the case plan. This satisfies the violation, but it is not a punitive action that limits the freedom of the JII like a curfew restriction.
3. Sanction to Violation:
Roughly 14% of the EM referrals fall into this category.
This is in response to a violation of supervision, with a specific start date and end date. This use often comes with curfew restrictions.

Examples from the field

Our Victim Services Unit (VSU) shared that GPS can have a significant impact on a survivor's safety as it can help prevent JIIs from violating no contact orders (NCOs) and restraining orders. If a JII violates a no contact or protective order then DCJ has evidence that can be used for a probation violation or for a protective order violation, and survivors have evidence that can be used as justification during a protective order hearing (especially for permanent stalking order hearings). Not only is GPS helpful for evidence when a JII violates no contact orders and restraining orders, but in some cases, it deters JII's from violating such orders.

GPS is also powerful because it takes the responsibility off of survivors to report violations of no contact orders. When a JII violates a no contact order, the only way the PPO knows about it is if the survivor reports it. There can be huge safety risks to reporting such violations. When the JII is on GPS and violates the no contact order then the PPO can hold the JII accountable without relying on a survivor to jeopardize their safety to report such violations.

Below are some summaries of how our parole-probation and Victim Services Unit staff have utilized EM in their day to day work:

- Survivor/Victim safety:
 - VSU worked with a Domestic Violence survivor in a significantly high lethality situation where the JII stalked her. Whenever the JII was on GPS, he avoided places he was not allowed to go but would visit places that had meaning to the survivor. This helped the PPO and survivor know that the JII was demonstrating stalking behavior that the PPO was able to address and informed a safety plan for the survivor. When the GPS bracelet came off, the JII violated the NCO within a few hours. Although the survivor had relocated to an unknown address, the abuser visited her past homes including posting a video of the violations on social media. The JII was placed back on the GPS bracelet within a few days and the violations stopped.
 - JII was on survivor's property a few times and the survivor did not know. She was notified and shared "GPS could save someone's life". The JII eventually cut off the GPS, and has absconded. Survivor's neighbors have told her he has been sitting on her steps daily when they go to work.
 - In domestic violence relationships, the use of GPS bracelets can act to deter JIIs from returning to the home they shared with the survivor and encourage the survivor to take them back. When the JII has an GPS bracelet on, they are not able to do this (without consequence).
 - GPS is commonly used on convicted sex traffickers. These JIIs have no contact orders with their listed victims and GPS allows the victims to remain safe and receive services while finding alternatives to prostitution.

- Tool for accountability:
 - A JII convicted of sexual abuse against young boys continued to seek out homeless youth to groom into having a relationship. He was put on GPS to track his location. He reported that having the GPS reminded him that he needed to hold himself accountable for his own actions and began to realize that he was putting himself in places where youth hang out. He began taking accountability for his behavior instead of blaming it on an outside factor he could not control.
 - A victim reported being concerned that a JII was stalking her. The JII insisted he had not been there but was placed on GPS for 30 days to monitor. The victim called after he was placed on GPS, provided the location where she thought he was, and the GPS records showed he was not there. This not only relieved some of the victim's concerns but also provided evidence that supported the JII's insistence that he was not making efforts to contact the victim.
 - A JII on supervision for Assault IV domestic violence and was drunk the day he assaulted the victim. He denied his alcohol use but was picked up for a DUII several months into his probation and was placed on SCRAM. He shared with his PPO that "this bracelet is the best thing that has ever happened to me. I am not sure I am ready to come off. Thank you for putting me on this, this has been the biggest eye opener ever and I can't remember the last time I have felt this good."
 - A JII was arrested for violating a NCO and destroying the victim's residence. He was placed on GPS to verify no contact occurred after he was arrested. No further contact concerns have been reported and the JII has been attending Alcohol and Drug/Domestic Violence Intervention Counseling and slowly working toward reunification with the victim.
- Monitor high risk criminal activity:
 - GPS was able to confirm that a JII was the driver involved in a bank robbery. The JII was prosecuted in the federal system.
 - GPS data was used in the prosecution of a JII involved in a fight and shooting at a strip club. This resulted in a conviction.
 - A victim reported a new sexual assault of JII under supervision. The GPS showed the JII was at the location of the crime and was subsequently convicted of Attempted Assault II. The GPS points were submitted as part of court testimony given by the PPO.
 - A JII on supervision for having sex with under age females was found in violation for coercing an underage female to be involved sexually with him. He was placed on GPS and it was confirmed that he was at the minor's house and was arrested.
 - GPS is often used to monitor suspected shooters. If staff receive up to date intelligence they respond by using GPS to document the JII's movement. This has proven to drastically reduce the JII's violent behavior. There are multiple examples of PPOs working with other Law Enforcement partners to confirm whether or not a JII was at a scene connected to a shooting. GPS data has been instrumental in investigations - both to place JIIs at shootings as well as to clear someone in a shooting investigation.
 - Every time a shooting occurs, the EM Corrections Technician checks GPS data for any DCJ JII in the area of the incident. This will "rule out" everyone on GPS that is not in the area. This has cleared numerous suspects or rival gang members as their GPS data places them somewhere else. This has proven to be a valuable tool to insure the innocence of JIIs.
 - A specific example includes a JII who was arrested and charged with murder. He was placed on GPS. A shooting occurred and after checking the GPS data, it placed the JII at the scene of the homicide. He cut the GPS bracelet off just minutes later. Law enforcement was able to track the GPS data from earlier in the day and acquire photos from Tri-Met, as he took public transportation to the scene of the incident. This created a

positive ID which confirmed the motive as the suspect and victim were rival gang members.

Demographic breakdown of individuals in the program

Below is the number and percentage of JIs (post-adjudication) on EM disaggregated by race and ethnicity and gender.

The information below reflects the unique people on EM between 1/1/2019-12/31/2019 with a State Identification (SID) number entered into the State data system. While the number of unique people on EM was 968, the number who had valid SID numbers was 886. This is important because only those who have valid SID numbers have more complete information, such as demographics, entered into the information system.

Number Found				Percent Found			
	Male	Female	All Found		Male	Female	All Found
White	371	87	458	White	42%	10%	52%
Black	280	38	318	Black	32%	4%	36%
Hispanic	74	8	82	Hispanic	8%	1%	9%
Asian	11	4	15	Asian	1%	0.5%	2%
Native American	12	1	13	Native American	1%	0.1%	1%
All Found	748	138	886	All Found	84%	16%	100%

The demographics for all those on supervision for this time period is the following:

Demographics	Percent
Male	80%
Female	20%
White	66%
Black	21%
Hispanic	8%
Asian	3%
Native American	2%

Recidivism rates and other measurements of effectiveness

In July 2020, our Research and Planning team completed a literature review on EM. Below are some key takeaways from their review of scholarly articles. It reveals there is no clear consensus on the effects of EM on recidivism rates.

- When the recidivism rates of the EM JIs were compared with those who did not have EM, those for the EM participants were lower.
- Can EM make a difference? The answer depends partly on the outcome desired. If it is program completion, then the surveillance/control aspect of EM may ensure that JIs complete a period of supervision without incident. Completion rates were high across EM programs even though

the time on the program varied considerably. However, if the desired outcome is reduced recidivism, EM has questionable merit.

- EM combined with treatment significantly reduced recidivism among moderately high-risk JIIs, but had no effect on lower risk JIIs.
- The major results on the effectiveness of EM in reducing recidivism are consistent with the general research literature on sanctions (Gendreau & Goggin, 1996). If one is interested in reducing recidivism, then offender treatment, rather than sanctions, is the most promising approach (Andrews & Bonta, 1998).
- Intensive supervision with EM may actually increase recidivism, perhaps as a result of resentment or increased criminal association.
- After six months, those selected for release to EM had a low rate of recidivism (9.3%) compared to eligible JIIs not granted release (40.5%) and an historical comparison group (30.0%)
- Renzema (2003) conducted a meta-analysis to explore the effects of radio-frequency monitoring on recidivism, based on 14 methodologically rigorous studies that had well-established treatment and control groups. However, no significant reductions in post-sanction recidivism rates were found. Similar findings were reported in a second meta-analysis conducted by Renzema and Mayo-Wilson (2005).

As mentioned above, DCJ's use of EM can be just one tool used as part of a JII's case management plan. Like the research reveals above, there is not a well-defined direct link of the use of EM on recidivism. DCJ did not pull specific recidivism rates based on this and based on the difficulty in pulling recidivism rates for the specific JIIs on EM. Lastly, the majority of people placed on EM are at a higher risk to reoffend and therefore could skew the recidivism data.

One data point we have tracked over the years is the number of jail beds we have saved because we utilized EM instead of sanctioning a JII to jail. The info for the past several fiscal years is below.

Fiscal Year	Number of jail beds saved
FY 2017	54,789
FY2018	59,676
FY2019	45,723

Alternatives to electronic monitoring

Sanctions:

Prior to the COVID-19 pandemic, Community Service was an option for PPOs to respond to a sanction violation. We are hopeful that we will be able to offer this as an option in the future.

Placing someone in jail is also an alternative to placing someone on EM, however it is a more costly option.

Interventions:

Another alternative is cognitive-behavioral interventions. Due to state funding reductions we experienced as a result of the 2019-21 Legislatively Adopted, we eliminated the Change Center, a program that provided cognitive-behavioral interventions. This program was an option for PPOs to refer JIIs who would benefit from engaging in classes directed at changing thinking and building and improving life skills. While this programming is still available through other providers, the funding

reduction we experienced last summer has limited the availability and ease of referring JIIs and is no longer an alternative sanction option. However, we remain committed to explore ways we can make this intervention more available.

Other interventions include increased reporting to the PPO and identifying referrals to community programming to address identified needs.

Next steps

Like with many of our practices and policies, DCJ commits to continually examine how we use the EM tools outlined in this budget note. The COVID-19 pandemic has provided DCJ with an opportunity to look more closely at how we are using EM and decrease the frequency of use. Since March, in response to the COVID-19 pandemic, we directed our PPOs to limit the use of EM for technical violations to minimize the potential spread of the virus. They are directed to focus the use of EM to address immediate public safety concerns. Prior to the COVID-19 pandemic, the four months usage of DCJ EM referrals as a response to sanctions were from a high of 29 to a low of 19 per month. Post COVID-19 pandemic, our usage as a response to sanctions is from a high of 9 to a low of 2.

Our goal is to prioritize using these tools to prevent criminal or dangerous behavior. The use of EM will continue to be just one tool we utilize as we work with JIIs in developing case plans that will emphasize behavior change, connecting them to the resources they need, and holding them accountable.

In addition, we will continue to also specifically examine the use of EM in specific units to identify and address disproportionate impacts. For example, our Gang Unit logs the highest instances of EM use. While this unit has a strong focus on preventing new crimes, like shootings, it is important to revisit and refine who is placed on GPS and why. As conversations continue to explore the disproportionate representation of people of color in our criminal justice system, DCJ is committed to being a part of the reform discussions that are taking place among our criminal justice partners, which will include discussions around the use of EM.

Lastly, as part of Multnomah County's involvement with the Safety and Justice Challenge which is looking at ways to improve our pretrial system, we will be reviewing the use of EM for appropriateness and impacts on the defendants we serve. In addition, we will continue to be engaged in developing programs and resources that provide more up front services that could prevent someone from being placed on EM. A recent example of this is the funding provided to expand Flip the Script curriculum to the pretrial population. Our hope is that further investments are made to provide more resources to these sort of programs which can help individuals decrease their level of involvement in our public safety system.