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# Home Confinement: A '90s Approach to Community Supervision

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Probation officers are always anxious to hear the explanations from these types of offenders. If offenders cannot explain the discrepancies to their probation officer, they may get the opportunity to explain it to the judge at a violation hearing.

If the role of probation officers has changed in recent years, so has the type of offender being investigated and supervised. U.S. probation officers are coming in contact with more and more white-collar criminals who are involved in telemarketing scams, bank and securities fraud, medicare and medicaid fraud, money laundering and anti-trust violations. These sophisticated offenders are often college educated and may be doctors, lawyers, accountants, or bank executives. They are hardly the stereotypical offenders (with personal and family problems) who motivated some probation officers to study social work in hopes of rehabilitating them.

The 1991 amendments to the federal sentencing guidelines increased the number of offenders who are not "individuals." Investigating and supervising the "corporate" offender has created for probation officers unique challenges that they never contemplated encountering earlier in their careers. The sentencing guidelines for corporate offenders call for huge fines when corporations and other organizational offenders commit federal crimes. The new Anti-terrorism and Death Penalty Act actually requires mandatory restitution in certain cases for both individual and corporate offenders. However, Congress' intentions in passing these laws will not be achieved if the probation officer's investigation cannot identify the assets needed to pay these fines and restitution.

The U.S. probation office's response to these challenges has been training, training, and more training. Those officers who demonstrate an interest and a level of expertise in the area of financial investigation, especially when working with complex cases, often become the "financial investigation specialists" of their districts. These specialists investigate and supervise the most complex cases and often are skilled in cash-flow analysis and the indirect methods of investigation that are employed by agents of the Internal Revenue Service. These specialists are able to analyze complex individual and corporate financial information and determine income and other financial benefits which are often passed through a business to an individual. They are able to use their investigative skills when they suspect that offenders are not being truthful or may be living beyond their reported means. These officers also become an important resource to other officers in their district.

Yes, we are still probation officers, and, no, we have not become accountants. However, these days U.S. probation officers come in contact with accountants, tax attorneys, and other financial professionals. And we hold our own quite well, thank you.

## Home Confinement: A '90s Approach to Community Supervision

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It's three o'clock in the morning and an officer's pager is beeping. After several beeps the officer rolls over in bed and looks at the clock. Bleary eyed, she reads the screen on the little black box that has totally changed her life. She already knows without looking that it's an alert for one of the offenders on her caseload. Someone left home without permission or tampered with the ankle bracelet with transmitter that he or she is wearing. "This better be something really serious," the officer mutters to herself as she dials the monitoring center, trying not to wake her husband. But he's gotten so used to these calls that he doesn't even stir when the pager begins to beep.

The alert could be caused by something as simple as a power failure from a disconnected power cord or a telephone outage from a storm. At three in the morning the officer hopes it is something simple so she can get back to sleep. As the telephone rings in the monitoring center, for some unimaginable reason the officer remembers the movie *It's a Wonderful Life*, where Clarence the angel tells Jimmy Stewart that every time a bell rings an angel gets his wings. In her sleep-deprived daze the officer thinks that in her case every time the pager beeps another offender has tried his wings and "flown the coop!"

If you don't know why this officer was called in the middle of the night, you have missed the newest "innovation" in community corrections, home confinement. In a profession that has few avenues for creativity and where so-called innovations seem to be recycled every 10 or 20 years, developing technology has recently paved the way for a cost-saving alternative to detention and incarceration. In growing numbers courts are imposing terms of home confinement where a person is ordered to remain in his or her residence for any portion of the day. Home confinement may range from a simple nighttime curfew to actual "lock-down" home incarceration. The preferred approach is to use electronic equipment to monitor home confinement although other methods also are used.

Although many states use home confinement primarily as a method to reduce jail and prison overcrowding, federal courts use home confinement as a sentencing alternative to punish offenders without in-

carceration. For pretrial defendants home confinement is not a punishment, but a method to assure that they will make future court appearances and to reduce the risk that these individuals may pose to the community. It is an alternative to detention for those defendants who would otherwise be detained if home confinement were not available as a release alternative.

The federal courts use a single contractor who provides electronic monitoring equipment to more than 300 sites across the country including Hawaii, Guam, the Virgin Islands, and Puerto Rico. The contractor maintains a national monitoring center that receives signals from the monitoring equipment in each participant's residence. Officers are contacted each time one of the following "key events" occurs: unauthorized absences from the residence; failure to return to the residence from a scheduled absence; late arrivals; early departures from the residence; equipment malfunctions; tampering with the monitoring equipment; loss of electrical power or telephone service; location verification failure (where a participant moves the monitoring equipment from the residence without permission); and when the monitoring equipment misses a randomly scheduled call to the monitoring center.

The home confinement officer's field work centers on three main activities: selecting participants for the program, physically placing participants in home confinement ("hooking up" or installing the electronic equipment), and supervising participants following the hookup. Officers conduct selection investigations, visiting each potential participant at home to determine if the person qualifies for home confinement. They hook up participants and conduct frequent home visits to interview household members and physically check the equipment for signs of tampering. The hooking up process is an important time for educating participants and any other household members about how home confinement works. The officer explains the rules and structure of the program in detail and addresses any questions and hypothetical situations the participant raises. The officer may discuss how the electronic equipment works and its range of operation. The officer also discusses the participant's weekly schedule of activities, what the participant needs to do to comply with the program, and what is expected of the participant as far as his or her performance on home confinement.

Once the electronic equipment is installed, the next stage in home confinement supervision begins. To ensure that the participant complies with the terms of his or her release, officers must make field contacts to verify the participant's whereabouts. For every participant on the officer's caseload, there are a multitude of reasons to be away from the residence, each of which is subject to verification by the officer. Working, treatment sessions, religious services, medical appointments, urine testing, school, or meeting with attorneys constitute the majority of allowable out-of-residence activities.

To verify a participant's location away from the residence, officers often use a small, portable monitoring unit to pick up the radio signals generated by the participant's ankle bracelet. The officer merely drives to where the participant is scheduled to be and waits for the receiver to pick up the transmitter's signal. A code number appears on the receiver's screen and identifies the participant. Officers have picked up transmitter signals in high-rise buildings from as far away as 41 floors. They can verify that participants are at the jobsite, at the doctor's office, or in school without leaving their cars, entering buildings, or meeting participants. This small piece of technology protects the officer from entering dangerous areas, allows the participant to work without the intrusion of the officer's visit, and enables the officer to verify more offenders in one day than if face-to-face contact were required in each instance. Sometimes, however, meeting with the participant—or being observed by that person—is the most effective means of verification. Face-to-face encounters let participants know that their activities are being watched and that they should remain on their schedule in approved locations.

Home confinement is a demanding sentence for the participant as well as the home confinement officer. Home confinement affects not only the participant but household members as well. For some participants it is the first time that they have scheduled any portion of their lives. They must have permission to go to the doctor, see their attorney, or even go to the grocery store. Many must ask others to do their shopping, pick up the laundry, or take the children to school. Some participants are unable to attend family events or even leave their residence to pick up the mail or wash the car.

Home confinement officers' responsibilities are different than those of their colleagues. Home confinement supervision is labor intensive. In essence, officers are "on call" 24 hours a day, 7 days a week because they must respond anytime there is a potential violation. The work is demanding: alerts average 10 per officer per day in the federal program, many after normal work hours. Nationally, this is an average of nearly 34,000 alerts per month. Officers also process an average of 12,500 routine schedule changes and install or remove an average of 1,500 monitoring units each month.

Sometimes it is not even the participant who is the cause for the middle-of-the-night phone call. Electrical storms in the southeast, wind storms in the northwest, snow storms in the winter all can wreak havoc on the electrical power system. If a participant loses electricity, the officer who supervises that individual can expect two telephone calls from the contractor's monitoring center—one call to let the officer know the power is out and another to let the officer know that it has been restored. Multiply that event times the number of par-

ticipants on the officer's caseload, and the night's sleep may shorten considerably. Moreover, the officer's spouse loses sleep because of the calls.

Home confinement officers also must know more detail about the persons they supervise. While most officers have a broad knowledge of offender and defendant activities, home confinement officers must know specifically where the participant is supposed to be and when. For instance, they must know where the participant's work-site is hour by hour, the exact time and place of the participant's Alcoholics Anonymous meeting, and the route that the participant will take to and from work. They are "gatekeepers" of a sort, supervising participants who are only allowed to leave their homes to pursue activities narrowly defined by the court. Another important difference is that home confinement officers must deal with events immediately. They must investigate and resolve any deviation from the program set for the participant since the participant is, in effect, "incarcerated" at home. A good support person—one who is a stickler for details—can be an enormous help to the home confinement officer in gathering and relaying information, handling offender inquiries, contacting the monitoring center, and making the many phone calls required to keep track of offenders. Having help with these tasks allows officers to focus on verifying offender whereabouts and activities.

Home confinement is a cost-effective alternative to jail and prison for many defendants and offenders who do not need to be locked up. While it is a new tool for officers to use to control and guide behavior, it is not the solution for criminal activity. Even though preliminary statistics about the federal home confinement program from the Administrative Office of the United States Courts indicate that less than 10 percent of the persons placed in the program are terminated unsuccessfully and that less than 2 percent commit new crimes while in home confinement, home confinement will not stop someone who wants to commit a crime from doing so. Home confinement will provide the court with more information with which to tailor a sentence for the needs of the person and the community and additional supervision tools for officers.

Home confinement also provides a significant cost savings for the government. In fiscal year 1996 (according to the Administrative Office), if home confinement did not exist, more than 8,000 offenders would have been in prison or halfway houses and more than 5,000 defendants would have been detained in detention centers or halfway houses. The resulting annualized cost to the government and the savings from the use of home confinement would have been at least:

| | |
|---|---|
| *Cost of Incarceration:* | $42 to $61 million (depending on the level of incarceration) |
| *Cost of Home Confinement:* | $19 million |
| *Cost Savings:* | $23 to $42 million |
| *Cost of Detention:* | $27 to $41 million (depending on the type of detention facility) |
| *Cost of Home Confinement:* | $12 million |
| *Cost Savings:* | $15 to $29 million |
| *Total Cost Savings:* | $38 to $70 million (depending on the level of incarceration or the type of detention facility) |

The officer who was awakened in the middle of the night was able to go back to sleep. After an hour of calls to the participant's residence, she learned that he had been unable to sleep so he wandered out into the back yard and did not hear the monitoring center's telephone call. He wandered back in as the officer's call came in. He won't wander so far the next time.

The 3 a.m. calls almost seem worthwhile when an officer hears good things about the home confinement program. For example, one officer who was visiting a school to verify a participant's presence in class was thanked by the school administrator. The administrator said she was surprised that anyone actually cared where the participant might be after he was sentenced and allowed to remain in the community. To the officer, this was validation that home confinement, with the proper level of accountability, can satisfy the public's sense of justice. It is a program that promotes participant accountability, enhances public safety, builds tax burdens into taxpayers, and offers an alternative to costly prison confinement.

## Firearms Instruction

United States probation and pretrial services officers are authorized by federal law and Judicial Conference policy to carry firearms in performance of their official duties. Most chief probation and pretrial services officers—with the approval of their chief judges—have implemented firearms programs in their districts and have selected officers to serve as firearms instructors. These officers are trained and certified at instructor schools conducted by the Federal Corrections and Supervision Division of the Administrative Office of the United States Courts. Once trained and certified, they teach their fellow officers to carry firearms, and they conduct periodic training and retesting.

Before carrying a firearm, officers are required to participate in a 3-day initial training course which consists of intense classroom and range instruction. They must pass a written exam and two separate courses of fire with 80 percent proficiency to meet the minimum standards for qualification and are requalified at least annually.

Officers are instructed to use firearms only for self-defense or to protect a fellow officer from death or serious harm. They are taught to retreat whenever they can do so safely if a dangerous situation arises. Many districts train officers in crisis intervention skills, self-defense tactics, and the use of pepper spray as options for responding in hostile situations.

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# ELECTRONIC MONITORING SELF PAY PROGRAM

Electronic monitoring services are generally utilized to enhance the Probation/Community Supervision and Corrections Departments capability of providing intensive supervision of those individuals determined to require daily surveillance of their curfew adherence. Based on that premise, the total costs associated with electronic monitoring are paid by the entity mandating the monitoring. Ongoing reductions in budget allocations along with an increased number of offenders placed on probation warrants investigation of establishing a house arrest program requiring the participant to assume partial or total financial responsibility for the costs associated with the program.

A self pay electronic monitoring program affords the Judiciary an additional option or alternative, either during pre-trial or at the time of sentencing, to place an individual on electronic monitoring in lieu of the present options of jail time or probation. Additionally, by establishing a sliding fee scale, those who can afford more than the minimum fee will provide revenues for the indigent participants who cannot afford to pay.

A self pay program can assist in accomplishing the following objectives:

* Retain jail space for the most appropriate defendants
* Reduce the number of persons placed on Probation who could be diverted to a house arrest program
* Provide the most cost effective, restrictive means of punishment in lieu of incarceration
* Provide a mechanism for defendants to continue employment and support their nuclear family
* Reduce the numbers of persons for which the County assumes medical liability (while incarcerated)
* Reduce the numbers of families requiring County, State and Federal assistance due to the main caretakers inability to continue supporting their family while incarcerated

To establish an effective program the following activities must be undertaken:

* Develop a participant contract detailing the requirements of the program including all of his/her responsibilities.
* Develop a sliding fee schedule based on hourly wage. Establish a minimum fee, hookup fee including mileage to and from their home, and fees for damaged or lost equipment.
* Develop policies regarding initial payment requirements, as well as monthly or weekly fee collections. Determine the amount of payment required in advance by a percentage and with a minimum. Incorporate full payment requirements

as a mandate for successful completion of the program.

* Develop program policies and procedures regarding weekday and weekend curfews. Establish punishment and reward system for curfew violations or lack of.
* Develop criteria to be used in qualifying offenders eligible for the program.
* Establish an indigent payment policy as it relates to the use of the moneys collected above the minimum fee.
* The goals and objectives of the house arrest program must be documented and understood by all parties involved in the program.

Potential Eligible Defendants: Any defendant charged with a misdemeanor, forgery, possession of a controlled substance or any felon who does not present a threat to society or whom is deemed appropriate. STATE LAWS VARY THEREFORE, PERSONS ELIGIBLE IN ONE STATE MAY NOT BE ELIGIBLE IN ANOTHER.

Additional information will be made available on request.

# The Cost Effectiveness of Using House Arrest With Electronic Monitoring for Drunk Drivers

By Kevin E. Courtright, Ph.D., Bruce L. Berg, Ph.D., and Robert J. Mutchnick, Ph.D.*

### *Introduction*

THIS ARTICLE describes a county house arrest with electronic monitoring (EM) program and its cost effectiveness during its first full year of operation (October 1, 1992, through October 1, 1993). Since the county under examination is located in Western Pennsylvania, we will refer to it as "Western County." Similarly, we will refer to the probation department located within Western County as the "Western County Probation Department." This will be done to ensure anonymity. Since the majority of house arrest with EM participants in this county were arrested for the crime of driving under the influence (DUI), only those arrested for DUI were included in the study ($N = 57$). Although intermediate sanctions such as house arrest and EM are increasingly popular due to the bridge they form between standard probation and incarceration, what is perhaps most important to those presently operating or considering implementing intermediate punishment (IP) programs is whether officials can avoid incarceration costs, i.e., jail days, by diverting sufficient numbers of jail-bound offenders into these new programs.

Some studies have found house arrest with EM programs to be cost effective (Armstrong et al., 1987; Forgach, 1992; Flynn, 1986; Lilly et al., 1992; Lilly et al., 1993) while some have found that such programs were too expensive or did not seriously relieve jail overcrowding (Ball et al., 1988; Petersilia, 1986). Other reports (Forgach, 1992; Palumbo et al., 1992) also have been negative, finding instances of net widening, an occurrence where offenders not bound for jail are given a more intrusive and more expensive sanction than what they normally would have received had the new program not existed. In other words, if offenders who would have normally been sentenced to standard probation are now being sentenced to an IP program, e.g., house arrest, intensive supervision, or EM, simply because it is now available, then net widening would have occurred. To summarize, research regarding the cost effectiveness of house arrest with EM programs has been mixed. Meanwhile, these programs continue to grow at a rapid rate (Klein-Saffran, 1992).

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### *The Development of IP Programs Within Pennsylvania*

In 1990, the General Assembly passed the County Intermediate Punishment Act (1990), which resulted in certain cells within the state's sentencing grid being dedicated to non-confinement sentencing options. Counties were urged to submit their own intermediate punishment plans and were given financial incentive, in the form of grants, to develop and maintain IP programs that hopefully would eliminate the overcrowding crisis that earlier sentencing guidelines had helped to create.

Present Pennsylvania law mandates certain periods of confinement for DUI offenses, the categories of which are all second-degree misdemeanors. For a first offense within 7 years, the legislative penalty specifies a mandatory minimum confinement period of 48 hours (Vehicles Law of Pennsylvania, 1994). A second DUI conviction within 7 years yields 30 days of confinement, and a third translates into a minimum of 90 days in confinement. Lastly, a fourth conviction within 7 years is automatic confinement for a minimum of 1 year in state prison. In addition, offenders must usually pay a fine, attend an Alcohol Highway Safety Program (safe driving school), surrender their license for a period of 1 year, and be committed to a drug and alcohol treatment program for evaluation and treatment (if recommended) purposes. All offenders must serve a minimum of 48 hours in confinement, after which time it is possible for an offender to be accepted into an IP program. The Intermediate Punishment Sentencing Act (1990), however, mandates that a defendant convicted under 75 Pa C.S. 3731(e) (relating to DUI) may only be sentenced to IP: 1) in a residential inpatient program or in a residential rehabilitative center or 2) by house arrest or electronic surveillance combined with drug and alcohol treatment.

Participating offenders enter an IP program in lieu of going to jail, and 1 day of EM or inpatient is equal to 1 day of confinement, representing true jail diversions and assumed cost savings. An example will more clearly illustrate the sentencing possibilities. If an offender was sentenced to 30 days for a third DUI conviction, it would be possible for him to serve 2 days in confinement, with the remainder of the confinement sentence (28 days) being served under house arrest with EM, or 28 days of inpatient treatment. Offenders remain under active parole supervision once their jail terms or IPs have expired. Once an offender completes safe driving school, successfully completes drug/alcohol

counseling, and pays all fines and costs in full, the offender will receive a valid driver's license once again. We now will look at Western County's house arrest with EM program specifically.

### *Western County's House Arrest With EM Program*

In 1991 Western County submitted an intermediate punishment plan that was subsequently approved. According to probation department officials, the vast majority of the cases being placed on EM are DUI offenders; thus, the plan was hypothesized to have its biggest impact upon the DUI population. A previous study by the present author (based upon data collection of the first 70 EM cases) revealed that approximately 72 percent of this population was convicted for the crime of DUI, followed by those convicted of a parole revocation (6 percent).

The Western County Probation Department has approximately 600 clients under active supervision, and approximately 40 percent of its overall caseload is convicted DUI offenders. Western County's house arrest with EM program officially commenced operation in October 1992 although a few offenders participated as early as July of that same year. Largely because of its infancy, EM has been utilized only on a limited basis by the Western County courts although its use is increasing at a steady pace (Chief Probation Officer, personal communication, December 3, 1993). The program uses an active monitoring system and occasionally employs tracking technology via an autolog monitoring system. One officer oversees the house arrest with EM program and is responsible for supervising those under the sanction. Once offenders complete their EM component, they may be transferred to another officer within the department. For the most part, these offenders remain under regular, instead of intensive, supervision. Those who participate remain under probation supervision although they are no longer on EM.

The jail in Western County was experiencing the same overcrowding problem that was afflicting both jails and prisons across the state. The primary goal of the intermediate punishment program of Western County was to divert "sufficient" numbers of eligible offenders from incarceration in the county jail, thus avoiding overcrowding and increasing the sentencing options available to the court (Chief Probation Officer, personal communication, 1991). A *specific* objective of the plan was to divert 80 DUI offenders from the county jail in 1992 in an attempt to save an average of 1,000 jail days.

### *Selection Criteria*

According to the County Intermediate Punishment Act (1990), only the following types of cases can be sentenced to house arrest with EM: DUI, bad checks, retail theft, simple assault, and second-degree burglary. Additionally, the act also mandates that offenders who participate in an intermediate punishment program do not "demonstrate a past or present pattern of violent behavior." The offenders participating in the EM program are all adults, and, according to officials at the Western County Probation Department, offenders are *not* excluded from participation because of their sex, indigence, or age (as long as the offender is an adult). The EM offenders are selected for participation based upon the above sentencing limitations plus additional criteria for selection, which include such factors as a willingness to 1) undergo drug/alcohol treatment and/or counseling; 2) be placed on EM and the subsequent rules and restrictions of the program; and 3) pay a fee of $8 per day to cover the cost of the monitoring although offenders are not excluded from participating in the program because of indigence. Once EM participants complete their EM component, they are to pay a $25 per month supervision fee for "regular" supervision, unless the court waives the requirement. Additionally, the prospective offender must have a residence and a telephone compatible with the EM equipment with no call forwarding or call waiting features. Lastly, employment is preferred, but not mandatory, for program participation. Now that the reader has been introduced to the history of the program and its operation, we will turn our attention to cost effectiveness.

### *Costs Versus Benefits*

One of the main reasons for the development of the EM program in Western County was the fact that the jail was experiencing severe overcrowding. To house one inmate in the Western County Jail costs approximately $42 per day (Deputy Warden, Western County Jail, personal communication, February 1, 1995). The majority of this expense is the result of wages and benefits for correctional officers. From October 1, 1992, to October 1 1993 (the study period), the EM offenders (DUIs only) spent a total of 1,742 days under EM. This translates into a cost savings of $73,164. The costs and benefits of the program during the study period are listed in table 1. This cost savings is valid only if it can be demonstrated that net widening was not occurring. In other words, were offenders who normally would have not gone to jail sentenced to house arrest with EM? As mentioned earlier, in Western County, 1 day of EM is directly equivalent to 1 day in jail, unlike some programs that use the one to three ratio where 1 day in jail is equal to 3 days under EM (see, for instance, Lilly et al., 1993). The mandatory jail sentences of the Vehicles Law of Pennsylvania (1994) stipulate that jail is the first and perhaps only alternative.

As noted earlier, EM offenders are charged $8 per day while under EM. This fee is used to pay for the technol-

TABLE 1. COSTS VERSUS BENEFITS DURING STUDY PERIOD

| Costs | | Benefits | |
|---|---|---|---|
| 1. Lease of EM Technology (Total of 1,742 days @ $5.75 per diem) | $10,016.50 | 1. Collection of EM Supervision Fees @ $8 per diem | $13,512.00 |
| 2. Miscellaneous Equipment (2 Autolog drive-by monitors, portable Breathalyzer units, camera, briefcase, etc.) | $ 3,581.50 | 2. Jail Days Saved (Total of 1,742 days @ $42 per diem) | $73,164.00 |
| 3. One-Half Salary for Probation Officer Plus Benefits | $11,160.12 | 3. Monthly Supervision Fees (Post EM) | $12,805.00 |
| TOTAL COSTS | $24,758.12 | TOTAL BENEFITS | $99,481.00 |
| | | TOTAL SAVINGS | $74,722.88 |

ogy, which is presently leased by the Probation Department. The per diem fee of leasing the technology is approximately $5.75. The difference is used to compensate for the non-payment by indigent offenders. During the study period, EM offenders paid a total of $13,512 toward their EM supervision. This figure is drastically close to the amount of $13,936, which is the amount tallied when 1,742 days under EM is multiplied by the per diem fee of $8. According to these data, the department was very successful in collecting these fees.

Another indicator of the success of EM fee collection is the frequency in which individual offenders were considered delinquent in paying their EM supervision fee. Offenders were considered delinquent if and when they reached the second step of a two-step process. The process was as follows: If offenders were delinquent in paying the EM fee, they would receive a warning letter from the Department, giving them 10 days to make payment or contact the agency. If the first step was not successful, then a second letter was mailed 2 months after the first. This letter specified a court date for the offender. According to probation officials, this process was usually successful in recovering delinquent fees. As evidence of this success, the vast majority of offenders (84 percent) were not delinquent in paying their EM supervision fee.

In addition to the EM fee, the Department collected $12,806 in supervision fees and $21,650 in fines during the study period. According to the chief probation officer, once they are collected, fines go to the state although some of the money is returned to the county. One hundred percent of the supervision fees, however, are eventually returned to the county of origin; thus, these fees can be counted as revenue for the county. Officers were largely successful in collecting supervision fees and fines from these offenders as compliance rates were 78 percent and 84 percent respectively.

Cost estimates of new programs must always address the issue of staffing. With the advent of new programs comes the hiring of new and additional staff. Western County did hire one additional probation officer to man the house arrest program. According to the chief probation officer, funds for this position have come mainly from a federal grant and subsequent state match secured by the director. Since many counties will not be able to secure grants for their personnel, cost estimates will be calculated without taking such grant funding into consideration. The reader should remember, however, that because of this, actual cost savings estimates will be conservative. In addition to the house arrest with EM program, the additional officer does supervise other (non-EM) offenders, so one-half of the new salary, plus benefits ($11,160.12), was used in the cost calculation. In addition to the salary, the county did purchase miscellaneous equipment for the EM program. This is also detailed in table 1.

It is readily apparent that the benefits outweigh the costs involved. However, if the program returns a large proportion of offenders to jail for technical (rules) violations, then cost savings estimates may be invalid (Palumbo et al., 1992). To test this, recidivism statistics were analyzed. The authors found that only one EM offender was arrested while participating in the program and that was for a summary offense (a violation). Similarly, only one EM participant tested positive for drugs and/or alcohol, and this misbehavior was the basis for a revocation proceeding and subsequent incarceration. If success is measured in revocation terms, then the EM program was 98.2 percent successful. This program certainly did not place the community at risk. Since the program *did not* return a large percentage of offenders for technical violations, positive cost savings estimates remain.

### *Discussion*

This article has demonstrated that house arrest with EM can be a cost-effective alternative to incarceration when planned and operated appropriately. The "avoidance" of jail days was responsible for the majority of "benefits" reaped by the EM program. The reader should note, however, that even when "jail days saved"

is not factored into the analysis, the county still managed to come out $1558.88 ahead.

There are several factors that had direct impact on the program's success. First, the selection criteria for program participation was somewhat stringent as they should be when placing offenders back into the community. Second, the county's house arrest with EM program was a *true* alternative to incarceration. These offenders had three basic options—go to jail, participate in inpatient counseling if so recommended, or be placed on EM. Here, the reader should note that the most costly treatment, inpatient, was utilized much more frequently *before* house arrest with EM existed as an alternative. This, most likely, was done in an effort to avoid jail by those offenders unwilling to participate in EM or not eligible for it. Third, true cost savings were realized (and easily calculated) due to the direct equivalency of jail versus EM days. Such equivalency also protects against net widening as every day of EM was a jail day saved. Fourth, Western County benefited from the passage of legislation allowing for grant monies to be spent on additional personnel needed to operate the program. Lastly, members of the Department were committed to achieving the goals that were set out by the director when the county's intermediate punishment plan was authored and subsequently approved.

To summarize, the Department was able to achieve its goals without 1) widening the net of social control and 2) unduly jeopardizing the safety of the community. Other states and jurisdictions could learn from what the Commonwealth of Pennsylvania has done.

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# Electronic Home Confinement: *Judicial and Legislative Perspectives*

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## Introduction

As corrections populations and costs skyrocket, policymakers will look to the development of more cost efficient ways of managing offender populations. The key to successful implementation of correctional options is the acceptance and support of key stakeholders, especially judges, state legislators, and city/county governing officials, as well as a "buy in" by the practitioners themselves. Good communication among the actors and agencies about the capabilities and limitations of sentencing options is essential (McGarry, 1993). Throughout the process consensus within the criminal justice system and a broad level of support from external constituencies is needed. Educating the public and building links to these external constituencies are necessary aspects of that process (Krauth, 1993).

Electronic home confinement has surfaced as one correctional option that is receiving increased attention. On January 1, 1995, the Criminal Justice Institute, Inc., reported 28,292 probationers on electronic supervision in the United States (Camp & Camp, 1995), an increase of 20,614 (368%) since January 1, 1993 (Camp & Camp, 1993). While these numbers tend to support the viability of this option, there are questions as to whether electronic home confinement has achieved its full potential as a correctional option. Limited stakeholder support and understanding is perceived as one barrier to its effective implementation. This article provides a summary of the results from a recent study of the perceptions of judges and policymakers about the viability of electronic home confinement.

## Statement of the Problem

Since 1980 the total estimated correctional population has risen 179% from 1.8 million in 1980 to 5.1 million in 1994 (BJS, 1995). The trend includes a 213% increase in the prison population, a 213% increase in the parole population, and a 165% increase in the probation population. The dramatic increase in the offender population has left prisons operating beyond capacity (Maguire & Pastore, 1995). Day reporting centers, intensive supervision, house arrest, boot camps, specialized caseloads, and electronic monitoring programs have been developed to supervise the increasing numbers of offenders diverted from prison/jail. These have enjoyed varying degrees of support from stakeholders.

If one believed the political rhetoric, it would be safe to assume that the American public wants tougher penalties for convicted criminals including increased use of prison sentences. However, in a 1992 national public opinion poll, Tilow (1992) found that four out of five Americans favored community corrections over prison for non-dangerous criminal offenders. Similar results were obtained from studies in Pennsylvania, Delaware, and Alabama where, after learning about the availability of alternative punishments, a clear majority in all three states favored non-prison sanctions for nonviolent offenders (DiMascio, 1995). A more recent study by Doble Research Associates in which 92% of Oregonians were found to favor alternative punishments for nonviolent offenders demonstrates the stability of this public support (DiMascio, 1995).

"Not only is there evidence that the public holds rather favorable attitudes toward alternatives to incarceration for some offenders, there is also research that indicates policymakers are not always attuned to public attitudes toward punishment in general and alternatives to incarceration in particular" (Brown & Elrod, 1995, p.337). Since this perception is often translated into public policy, it is critical that the attitudes of key stakeholders are assessed, understood, and used as the basis for educating them on the attributes of various correctional options.

The only study to date that attempts to determine attitudes about electronic home confinement was conducted by Brown and Elrod (1995) in their 1993 study of 1000 households in Oneida County, New York. They found the following:

- Ninety-two percent of the respondents were in favor of using electronic house arrest as a criminal sanction.
- Only 15% believed "serious" offenders could be placed on electronic house arrest. (A "serious" crime was defined as stealing or damaging property worth more than $1000 or committing a personal crime requiring medical attention.)
- Fifty-four percent indicated electronic house arrest could be used after an offender has served time in jail or prison, however, only 31% felt electronic house arrest should be used in lieu of incarceration.
- Nearly 94% of the respondents did not believe that electronic house arrest violated an offender's privacy.

Thus the authors concluded that the public supported electronic home arrest, with certain contingencies attached regarding the categories of offenders for whom it will be used (Brown & Elrod, 1995).

## Questions Under Study

The purpose of this national study was to gather baseline information on the opinions of judges and policymakers on practices and issues relating to electronic home confinement. Policymakers included state legislators, city/county governing officials, and state attorneys general. Judges included federal and state court judges, both adult and juvenile, who preside over bail hearings and criminal sentencing.

For the purpose of the study, the following research questions were posed:

1. How familiar are key stakeholders with electronic home confinement?
2. In the opinion of key stakeholders, do local statutes favor or restrict the use of electronic home confinement?
3. How do key stakeholders rate electronic home confinement on: rehabilitation, punishment, public safety, cost effectiveness, and reliability?
4. In the opinion of key stakeholders, what offenses and offender populations are appropriate for electronic home confinement?
5. What are the main reasons key stakeholders gave for supporting or opposing electronic home confinement?
6. In the opinion of key stakeholders, what parties should influence the decision as to whether or not to sentence an offender to electronic home confinement?
7. In the opinion of key stakeholders, what should be the primary goal of electronic home confinement?
8. How do key stakeholders view the future of electronic home confinement?

In addition, the study allowed the comparison of judges' and policymakers' opinions of key issues relating to electronic home confinement. A final area of study involved an examination of differences in how judges and policymakers view electronic home confinement as their level of familiarity varies.

## Methodology

### *Identification and Selection of Population*

The target population was subdivided into the following categories: state legislators, state judiciary committee chairpersons, state attorneys general, members of county governing boards, circuit/district judges, juvenile and family court judges, federal magistrates, and federal judges. The following sources were used to obtain mailing lists: The Council of State Governments, National Association of Counties, The National Directory of Children, Youth, and Family Service, and the United States Court Directory. A stratified random sample of 2800 individuals was selected from more than 22,000 individuals in the target population. The randomly selected lists were reviewed for duplications (between groups), and correct, complete addresses. As a result, 32 of the original 2,800 individuals were removed from the sample. An additional twenty-three surveys were returned by the U.S. Postal Service. This left a sample of 2,745 individuals.

### *Contact Procedures*

A cover letter, questionnaire, and a self-addressed stamped envelope were sent to each member of the sample population. The cover letter stressed the importance of each survey being returned to maximize the representativeness of the study. A deadline was identified for the return of the questionnaire. Non-respondents to the first mailing were sent a second cover letter, questionnaire, and self-addressed stamped envelope. A final completion deadline was established.

Eight hundred and forty-nine useable responses were received for an overall survey response rate of 31%. Response rates for each stakeholder group are reported in Figure 1.

## Findings

### *Familiarity with Electronic Home Confinement*

Survey respondents were asked to rate their familiarity with electronic home confinement on a scale of 1 to 5 with 1 representing "never heard of it" and 5 representing "very familiar." The average response was 3.93 for all survey respondents, 3.65 for the policymakers, and 4.15 for the judges. The difference in the means for the two groups were statistically significant at an alpha level of .05.

The responses were grouped in the following manner for the next data analysis process: 1 or 2 — not familiar, 3 — neither familiar nor unfamiliar, and 4 or 5 — familiar. Fifty-five percent of the policymakers and 69% of the judges indicated they were familiar with electronic home confinement (see Figure 2). Only 12% of the policymakers and 11% of the judges indicated they were not familiar with it.

### *Statutes Favor/Restrict Use of Electronic Home Confinement*

Survey respondents were asked if statutes in their jurisdictions favored or restricted the use of electronic home confinement. The responses were

**Figure 1**

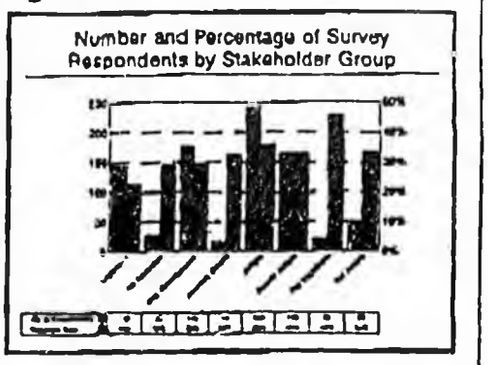



**Figure 2**

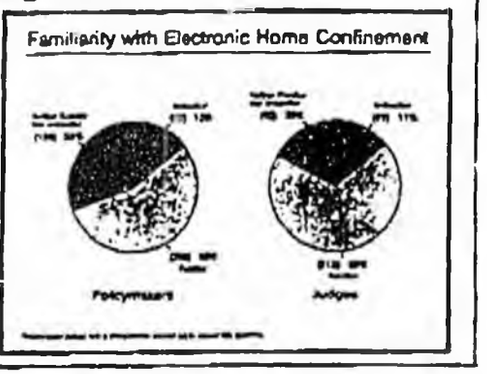


Figure 3

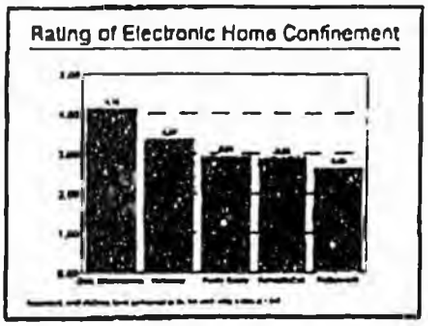
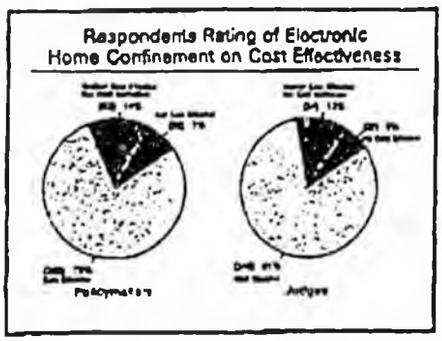



Figure 4

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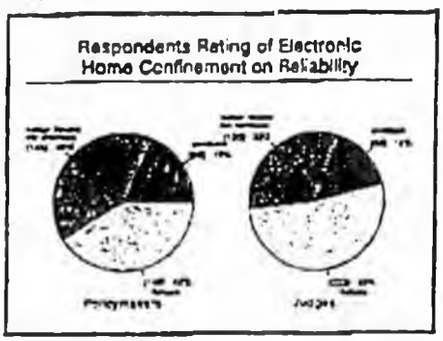
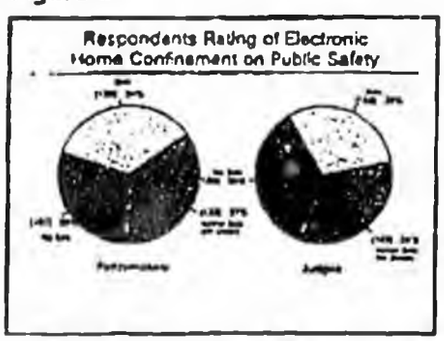



Figure 6




grouped in the following manner: 1 or 2 — restrictive, 3 — neither favorable nor restrictive, 4 or 5 — favorable. Fifty-six percent of the respondents indicated statutes were favorable toward the use of electronic home confinement. Only 7% of the respondents felt their statutes were restrictive. Policymakers (10%) were more likely than judges (4%) to indicate that electronic home confinement statutes were restrictive.

*Rating of Electronic Home Confinement on Key Factors*

Survey respondents were asked to rate electronic home confinement on: rehabilitation, punishment, public safety, cost effectiveness, and reliability.

- On a scale of 1 to 5 with 1 being "not cost effective" and 5 being "very cost effective," the average rating for the cost effectiveness of electronic home confinement was 4.15.
- On a scale of 1 to 5 with 1 being "not reliable" and 5 being "very reliable," the average rating for the reliability of electronic home confinement was 3.37.
- On a scale of 1 to 5 with 1 being "not safe" and 5 being "very safe," the average rating for the safety of electronic home confinement was 2.95.
- On a scale of 1 to 5 with 1 being "not effective" and 5 being "very effective," the average rating for the effectiveness of electronic home confinement was 2.90.
- On a scale of 1 to 5 with 1 being "lenient" and 5 being "severe," the average rating for the degree of punishment of electronic home confinement was 2.63 (see figure 3).

Responses for cost effectiveness were grouped in the following manner: 1 and 2 — not cost effective, 3 — neither cost effective nor cost ineffective, 4 or 5 — cost effective. Seventy-eight percent of the policymakers and 81% of the judges rated electronic home confinement as cost effective (see figure 4).

Responses for reliability were grouped in the following manner: 1 and 2 — not reliable, 3 — neither reliable nor unreliable, 4 or 5 - reliable. Forty-two percent of the policymakers and 52% of the judges rated electronic home confinement as reliable (see figure 5).

Responses for public safety were grouped in the following manner: 1 and 2 — not safe, 3 — neither safe nor unsafe, 4 or 5 — safe. Thirty-four percent of the policymakers and 30% of the judges rated electronic home confinement as safe (see figure 6).

Responses for rehabilitation were grouped in the following manner: 1 and 2 — not effective, 3 — neither effective or ineffective, 4 or 5 — effective. Thirty-two percent of the policymakers and 26% of the judges rated electronic home confinement as effective at rehabilitation (see figure 7).

Responses for punishment were grouped in the following manner: 1 and 2 — lenient, 3 — neither lenient nor severe, 4 or 5 — severe. Twenty percent of the policymakers and 21% of the judges rated electronic home confinement as severe punishment (see figure 8).

*Appropriate Crimes for Electronic Home Confinement*

Respondents were asked to rate the appropriateness of electronic home confinement for nine general offense categories. A scale of 1 to 3 with 1 representing "never," 2 representing "sometimes," and 3 representing "always" was used. The average responses ranged from 2.14 for traffic offenses to 1.24 for violent offenses (see figure 9).

Many respondents indicated that offenders convicted of violent offenses (81%), sex crimes (57%), domestic violence (39%), and drug offenses (27%) should **never** be considered for electronic home confinement.

Many respondents indicated that offenders convicted of traffic offenses (28%), misdemeanors (19%), property crimes (15%), and DUI (12%) should **always** be considered for electronic home confinement (see figure 10).

*Reasons to Support/Oppose Electronic Home Confinement*

Respondents were asked to select the

main reason(s) they support or oppose the use of electronic home confinement. The top four reasons selected were to: reduce jail/prison crowding (68%), allow offenders to work (64%), provide cost effective alternatives to jail/prison(64%); and maintain the family unit (43%) (see figure 11).

The three leading reasons selected for opposing the use of electronic home confinement were: public safety is threatened (28%), it is too lenient (26%), and the technology is unreliable (12%) (see figure 12).

*Stakeholder Opinions in Decision to Use Electronic Home Confinement*

Various stakeholder groups are involved in the decision of whether or not to sentence an offender to electronic home confinement. Respondents were asked the importance of various stakeholders' opinions in the decision process. The responses were coded on a scale of 1 to 3 with a 1 representing "not important," 2 "somewhat important," and 3 "very important." Respondents rated the opinions of judges (2.84) and probation and parole officers (2.63) as very important in the decision of whether or not to sentence an offender to electronic home confinement (see figure 13).

*Goals of Electronic Home Confinement*

Respondents were asked to rank four primary goals of electronic home confinement on a scale of 1 to 4 with 1 being "most important" and 4 being the "least important." The four goals were to rehabilitate the offender, to punish the offender, to reduce costs, and to protect the public. Judges and policymakers were consistent in their ranking with protection of the public rated as the most important followed by reducing costs, rehabilitation of the offender, and punishment of the offender (see Figure 14).

*Future of Electronic Home Confinement*

Respondents were asked to use a scale of 1 to 5 to express their opinions on the future of electronic home confinement. The responses were grouped with 1 or 2 coded "no future," 3 representing "here to stay," and 4 or 5 indicating electronic home confinement "will grow." Sixty-three percent of the judges and policymakers felt electronic home confinement would grow in the future (see Figure 15).

## Differences Between Levels of Familiarity with Electronic Home Confinement

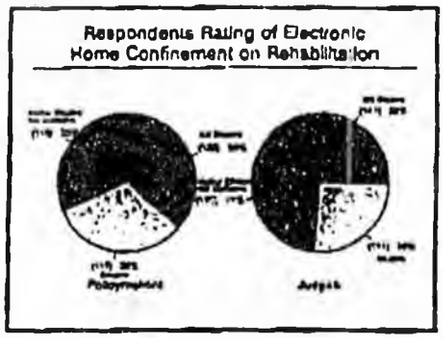
Analysis of variance statistical procedures were used to determine if differences in responses could be attributed to the level of familiarity with electronic home confinement. The more familiar respondents were with electronic home confinement, the more likely they were to indicate that:

- electronic home confinement was not restricted by statutes in the jurisdiction;
- electronic home confinement provided for the rehabilitation of offenders;
- electronic home confinement was a severe punishment;
- electronic home confinement provided public safety;
- electronic home confinement was a cost effective correctional option;
- electronic home confinement was a reliable correctional option;
- electronic home confinement was appropriate for offenders convicted of domestic violence and property offenses;
- opinions of judges and probation/parole officers were very important in determining whether or not to sentence an offender to electronic home confinement; and
- electronic home confinement would grow in the future.

The more familiar respondents were with electronic home confinement, the less likely they were to indicate that:

- opinions of the public, special interest groups, and law enforcement were very important in determining whether or not to sentence an offender to electronic home confinement.

Figure 7

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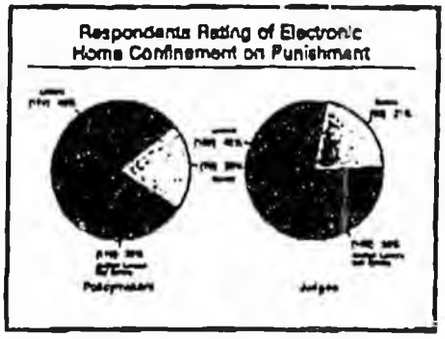
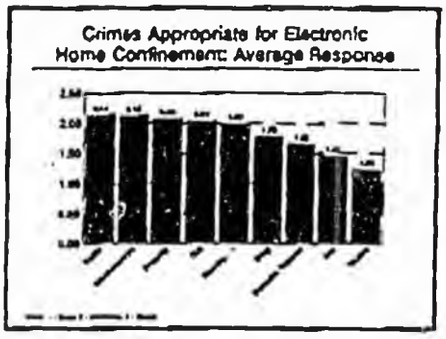



Figure 9

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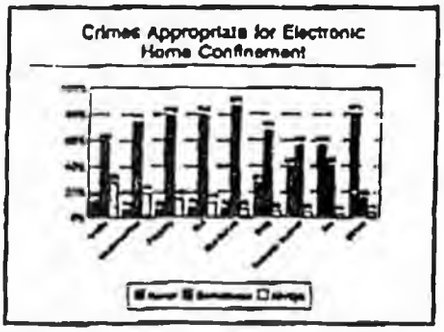

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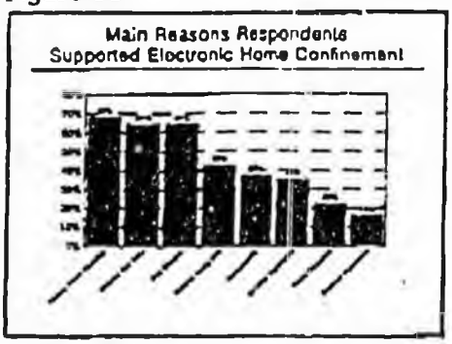


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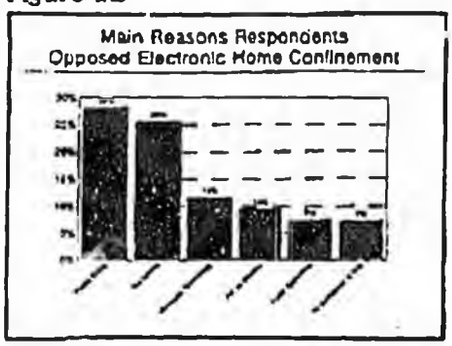
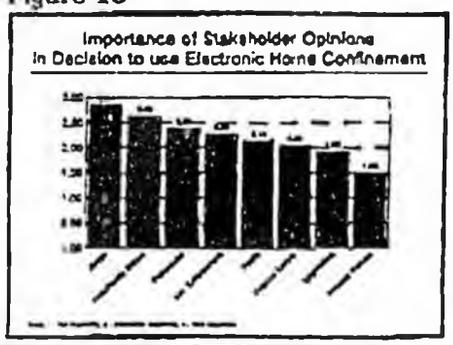



Figure 13




## Conclusions

**1. The majority of judges and policymakers were familiar with electronic home confinement.** Fifty-five percent of the policymakers and 69% of the judges were familiar with electronic home confinement.

**2. Judges and policymakers did not feel electronic home confinements statutes were too restrictive.** Only seven percent of the respondents indicated electronic home confinement statutes were too restrictive.

**3. The majority of judges and policymakers indicated that electronic home confinement was cost effective and reliable.** The average response for cost effectiveness of electronic home confinement was 4.15 on a scale of 1 to 5 with 5 representing very cost effective. The average response for reliability of electronic home confinement was 3.37 on a scale of 1 to 5 with 5 representing very reliable.

**4. Judges and policymakers indicated electronic home confinement should not be used for offenders convicted of violent, sex, domestic violence, and drug offenses.** A majority of respondents indicated that electronic home confinement should never be used for offenders convicted of violent (81%) and sex (57%) offenses. Many of the respondents felt that electronic home confinement should never be used for offenders convicted of domestic violence (39%) and drug (27%) offenses.

**5. Judges and policymakers supported electronic home confinement because they felt it reduced jail/prison crowding, it allowed offenders to work, and was cost effective. Judges and policymakers opposed electronic home confinement because they felt it did not provide for public safety and was too lenient.** Sixty-eight percent of the respondents identified reducing jail/prison crowding as the top reason to support electronic home confinement. Other reasons to support electronic home confinement included that the offender can work (64%) and cost effectiveness (64%). Twenty-eight percent of the respondents felt public safety was the major reason to oppose electronic home confinement. Twenty-six percent of the respondents felt it was too lenient.

**6. Respondents rated the opinions of judges and probation/parole officers as the most important in deciding whether or not to sentence an offender to electronic home confinement.** Eighty-six percent of the respondents felt the opinion of the judge was very important in deciding whether or not to sentence an offender to electronic home confinement. Sixty-five percent of the respondents felt the opinions of probation/parole officers were very important.

**7. Judges and policymakers ranked protection of the public as the number one goal of electronic home confinement.** Forty-one percent of the respondents ranked protection of the public as the number one goal of electronic home confinement.

**8. The more familiar respondents were with electronic home confinement, the more likely they were to indicate that electronic home confinement was not restricted by statutes in the jurisdiction, was effective at rehabilitation of offenders, was a severe punishment, increased public safety, and was a cost effective and reliable correctional option.** As the level of familiarity with electronic home confinement increased, the ratings of electronic home confinement on rehabilitation, punishment, public safety, cost effectiveness, and reliability also increased.

**9. Judges and policymakers felt electronic monitoring was here to stay and would grow in the future.** Sixty-three percent of the respondents indicated electronic home confinement would grow in the future, 29% felt electronic home confinement was here to stay. Only 8% felt it had no future.

## Discussion

Examination of survey results highlights two important issues. First, when asked to rank the primary goals of electronic home confinement, public safety was most frequently ranked as the most important goal. However, a concern for public safety was cited most frequently as a reason to oppose electronic home confinement. When compared to other alternative sanctions, this suggests a lack of confidence by judges and policymakers in the ability of electronic home confinement to provide for pub-

lic safety. For electronic home confinement to grow and prosper stakeholders must be convinced that electronic home confinement can provide the required level of public safety. How can this challenge be met? First, key stakeholders should be informed about how electronic home confinement works. Second, the effectiveness of electronic home confinement must be documented through research/evaluation results. Research/evaluation studies should compare electronic home confinement to other alternative sanctions including traditional probation/parole supervision and incarceration.

In the introduction to this article, the point was made that educating the public and building links to external constituencies were necessary aspects of developing and implementing correctional options (Krauth, 1993). Community corrections professionals have the continuous task of informing stakeholders about the goals, features, practices, and evaluation results from correctional options. A stakeholder familiar with the features of a program such as electronic home confinement is more likely to support the practice

One way to inform stakeholders about a correctional option, such as electronic home confinement, is to involve them in a policy group or policy team. McGarry (1993) recommends the development of a policy group or policy team made up of high-level policymakers from the criminal justice system; the county, city, or state legislature; and the general public to guide the process of developing and/or implementing the correctional option process.

Another critical step in building stakeholder confidence in electronic home confinement is to document its effectiveness. Previous research results are unclear about the effectiveness of electronic home confinement in reducing recidivism. This is because very few studies have been done that compare electronic home confinement with options such as traditional probation and parole, intensive supervision, and incarceration. The studies that have been done indicate that offenders under electronic home confinement fared no worse than those sentenced to other options suggesting that electronic home confinement does not threaten public safety (Cullen, Wright, & Applegate, 1995). Many of the studies that have been conducted on electronic home confinement were limited by one or more of the following factors: the low-risk nature of the samples; absence of an experimental research design; and the confounding effects of inadequate program integrity (Cullen, Wright, & Applegate, 1995). These are the same problems that plague other research on alternative sanctions.

The level of research on electronic home confinement programs should be increased. Research studies must be rigorous and carefully controlled. This includes the use of experimental research designs with random assignment and control groups. Electronic home confinement should be compared to other options such as traditional probation/parole, intensive supervision programs, and incarceration. In addition, research efforts should examine which conditions or combinations of conditions are the most effective. For example, Jolin and Stipak (1992) found that offenders who completed a program combining electronic monitoring and drug treatment had lower recidivism rates; and Renzema (1992) found that drug testing was an integral feature of most electronic home confinement programs.

A recent ruling by the New York State Court of Appeals states that conditions of probation, such as electronic monitoring, must be "fundamentally rehabilitative" (*People us McNair*, April 4, 1996). In other words, electronic monitoring could only be used to advance the defendant's rehabilitation (hence public safety). While controversial, the court's ruling is consistent with Jolin and Stipak's (1992) findings that electronic monitoring is most effective when it is used in combination with other rehabilitative options, such as drug treatment.

Manufacturers and community corrections agencies should encourage and participate in research efforts. All research studies should follow sound evaluation practices and monitor the electronic home confinement process to insure that all protocols consistent with good probation and parole practices are followed.

The second issue concerns the ranking of cost effectiveness as the second most important goal for electronic home confinement and responses regarding the appropriateness of electronic home confinement for certain offenders and offenses. If used appropriately electronic home confinement can be a cost-effective sentencing option. In addition to costs associated with jail/prison diversion, savings are made because the offender can work and support themselves and their families and thus they are less dependent on the public welfare system and tax revenues are increased as a result of the offender's employment.

**Figure 14**

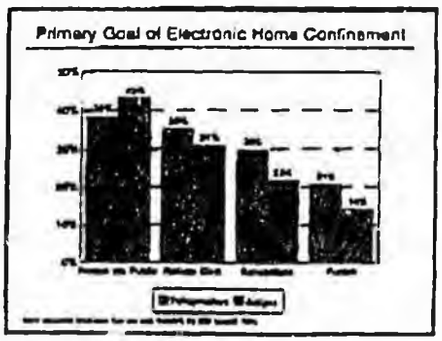
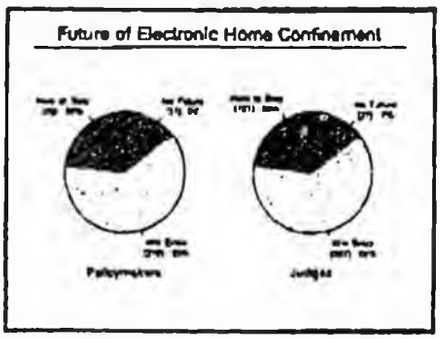



**Figure 15**



However, using electronic home confinement with low risk offenders who are likely to be placed on probation were it not for electronic home confinement undermines its ability to save money, as well as its contribution to public safety

**Community corrections professionals must play an active role in informing stakeholders about the goals, features, and practices of electronic home confinement.**

when more violent offenders are not permitted in the program. Stakeholders' preference for using electronic home confinement for traffic, misdemeanor, property, and DUI offenses leads to net widening and increased costs. Furthermore, matching intensive services, such as electronic home confinement, to low-risk offenders has been found to increase recidivism rates for these offenders, further inflating costs (Bonta, 1995 and Clear & Hardyman, 1992). Electronic home confinement is only cost effective when it is used on high risk offenders who, without electronic home confinement, would otherwise be sentenced to jail or prison, commit new crimes because of a lack of supervision, and/or violate the conditions of their probation.

Many stakeholders are reluctant to recommend electronic home confinement for violent offenses because they feel these offenders should be incarcerated. But the reality of the situation is that many violent offenders are already being placed under some form of community supervision. On any given day in the U.S. in 1991, there were an estimated 435,000 probationers and 155,000 parolees residing in local communities who have been convicted of violent crimes — or over a half million offenders (Petersilia, 1995). To facilitate the matching of offenders with appropriate correctional options based upon their risks and needs, Harland (1993) recommends the development of a continuum of correctional options. With such continuums, the severity of electronic home confinement is generally ranked just below a jail or prison sentence and well above standard and intensive supervision probation programs (DiMascio, 1995). Using electronic home confinement with high risk offenders enhances its cost savings potential and the likelihood of achieving public safety objectives.

The benefits of educating stakeholders on the use of electronic home confinement are clear. The survey results reveal that informed stakeholders are more likely to use electronic home confinement in general and more likely to support its use with appropriate offense categories. Community corrections professionals must play an active role in informing stakeholders about the goals, features, and practices of electronic home confinement. Finally, community corrections professionals and the electronic home confinement industry must work together with the academic community to research the effectiveness of all aspects of electronic home confinement.

### Recommendations

1. Community corrections professionals must continue to educate key stakeholder groups of the advantages, disadvantages, and goals of electronic home confinement.

2. Community corrections must develop sound policies and procedures for electronic home confinement programs. Written policies and procedures will increase the judicial and legislative confidence in the practice, as well as, ensure its proper use.

3. The use of electronic home confinement should be restricted to diverting offenders who would otherwise be sentenced to jail or prison, commit new crimes because of a lack of supervision, and/or violate the conditions of their probation.

4. Representatives from stakeholder groups must be involved at key decision points in the implementation and operation of electronic home confinement programs. Involvement in the program creates a buy-in and will result in support of the program.

5. Respondents ranked protection of the public as the number one goal of electronic home confinement. Electronic home confinement programs should be evaluated using scientific methodology to demonstrate to key stakeholders the extent to which electronic home confinement is meeting public safety objectives.

6. To ensure the future of electronic home confinement, community corrections professionals, as well as other stakeholders, should play an active role in the development of technology for electronic home confinement programs. Progressive companies are interested in providing exactly what the profession wants. It is the profession's role to make their needs known.

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# Alaska State Legislature

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DEPT. OF COMMERCE & ECONOMIC DEVELOPMENT
ALASKA COURT SYSTEM

Representative Joe Green
District 10

## Sponsor Statement

## HB 272 - Electronic Monitoring

HB 272 establishes the parameters for an electronic monitoring program in Alaska.

Electronic monitoring (EM) is a system where around-the-clock surveillance is provided for certain convicted offenders as an alternative to incarceration. The transmitter emits a signal to a field monitoring device, which receives and records various types of information about the offender, from location to monitoring alcohol consumption, depending on the degree of sophistication.

As the number of criminal convictions in Alaska continues to rise, we are faced with only three alternatives: build more prisons to incarcerate offenders, exacerbate already overcrowded prisons in violation of the Cleary decree, or allow more offenders to avoid incarceration. Current estimates for new prison construction exceed $100,000 per bed, which make construction of new prisons an oppressively expensive proposition; especially now, when financial resources are so strapped. At the same time, the public is calling for tougher treatment of criminals.

I believe we must look to alternatives such as EM to help resolve our dilemma. EM is used widely throughout the United States, Canada, and Europe. Here in the US, EM equipment became commercially available in 1984, and it's use has grown rapidly since. In 1988 the Nat'l Institute of Justice recorded 826 offenders being observed through EM. By the following year, this number had skyrocketed to 2,277. According to a survey in 1993, there were 66, 650 EM units in use. This rapid escalation attests to the effectiveness and economies of EM as an alternative correction measure to imprisonment.

Through an EM program, judges can sentence certain, non-violent, offenders to house arrest, or other restrictive sanctions, which leaves more room in our correction facilities for violent criminals.

HB 272 **does not require** that judges sentence offenders to wear electronic monitoring equipment, it simply grants statutory authority to the judiciary to consider EM in sentencing.

# CS FOR HOUSE BILL NO. 272(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/14/98
Referred: Rules

Sponsor(s): REPRESENTATIVE GREEN

## A BILL

## FOR AN ACT ENTITLED

**"An Act relating to allowing the commissioner of corrections to allow a prisoner to serve a term of imprisonment or period of temporary commitment by electronic monitoring; and relating to the crime of escape."**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

* **Section 1.** AS 11.56.310(a) is amended to read:

(a) One commits the crime of escape in the second degree if, without lawful authority, one

(1) removes oneself from

(A) a correctional facility while under official detention;

(B) official detention for a felony or for extradition; or

(C) official detention and, during the escape [,] or at any time before being restored to official detention, one possesses on or about oneself a firearm; [OR]

(2) violates AS 11.56.340 and, during the time of the unlawful evasion

[,] or at any time before being restored to official detention, one possesses on or about oneself a firearm; **or**

**(3) removes, tampers with, or disables the electronic monitoring equipment, or leaves one's residence or other place designated by the commissioner of corrections for the service by electronic monitoring of official detention for a felony**.

* **Sec. 2.** AS 11.56.330(a) is amended to read:

(a) One commits the crime of escape in the fourth degree if, without lawful authority, one

(1) removes oneself from official detention for a misdemeanor; [OR]

(2) having been placed under actual restraint by a peace officer before arrest, removes oneself from the restraint; **or**

**(3) removes, tampers with, or disables the electronic monitoring equipment, or leaves one's residence or other place designated by the commissioner of corrections for the service by electronic monitoring of official detention for a misdemeanor**.

* **Sec. 3.** AS 12.55.015(e) is amended to read:

(e) If the defendant is ordered to serve a definite term of imprisonment, the court may recommend that the defendant serve all or part of the term

**(1)** in a correctional restitution center;

**(2) by electronic monitoring**.

* **Sec. 4.** AS 33.30.061 is amended by adding a new subsection to read:

(c) The commissioner may, under AS 33.30.065, designate a prisoner to serve the prisoner's term of imprisonment or period of temporary commitment, or a part of the term or period, by electronic monitoring. A prisoner serving a term of imprisonment, or a period of temporary commitment, for a crime involving domestic violence is not eligible for electronic monitoring.

* **Sec. 5.** AS 33.30 is amended by adding a new section to read:

**Sec. 33.30.065. Service of sentence by electronic monitoring.** (a) If the commissioner designates a prisoner to serve the prisoner's term of imprisonment or period of temporary commitment, or a part of the term or period, by electronic

monitoring, the commissioner shall direct the prisoner to serve the term or period at the prisoner's residence or other place selected by the commissioner. The electronic monitoring shall be administered by the department and shall be designed so that any attempt to remove, tamper with, or disable the monitoring equipment or to leave the place selected for the service of the term or period will result in a report or notice to the department.

(b) In determining whether to designate a prisoner to serve a term of imprisonment or period of temporary commitment by electronic monitoring, the commissioner shall consider

(1) safeguards to the public;

(2) the prospects for the prisoner's rehabilitation;

(3) the availability of program and facility space;

(4) the nature and circumstances of the offense for which the prisoner was sentenced or for which the prisoner is serving a period of temporary commitment;

(5) the needs of the prisoner as determined by a classification committee and any recommendations made by the sentencing court;

(6) the record of convictions of the prisoner, with particular emphasis on crimes specified in AS 11.41 or crimes involving domestic violence;

(7) the use of drugs or alcohol by the prisoner; and

(8) other criteria considered appropriate by the commissioner.

(c) A decision by the commissioner to designate a prisoner to serve a term of imprisonment or a period of temporary confinement, or a part of the term or period, by electronic monitoring does not create a liberty interest in that status for the prisoner. The prisoner may be returned to a correctional facility at the discretion of the commissioner.

(d) The commissioner may require a prisoner designated to serve a term of imprisonment or a period of temporary confinement by electronic monitoring to pay all or a portion of the costs of the electronic monitoring, but only if the prisoner has sufficient financial resources to pay the costs or a portion of the costs.

FISCAL NOTE

No: 3

Bill Version: CSHB 272(FIN)

(H) Publish Date: 4/14/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date:

Title: An Act relating to allowing the commissioner of Corrections to allow a prisoner to serve a term of...

Sponsor: Representative Green

Requester:

Dept. Affected: Corrections

BRU: Administration and Operations

Component: Community Corrections Dir. Offi

Component Serial No.: 1382

Expenditures/Revenues (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 | FY 04 |
|---|---|---|---|---|---|---|
| Personal Services | 30.0 | 60.0 | 60.0 | 60.0 | 60.0 | 60.0 |
| Travel | | | | | | |
| Contractual | 91.6 | 183.2 | 183.2 | 183.2 | 183.2 | 183.2 |
| Supplies | 6.2 | 12.4 | 12.4 | 12.4 | 12.4 | 12.4 |
| Equipment | 2.5 | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 130.3 | 255.6 | 255.6 | 255.6 | 255.6 | 255.6 |
| CAPITAL EXPENDITURES | | | | | | |
| CHANGE IN REVENUES [ ] | | | | | | |

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|---|---|---|---|---|---|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 30.0 | 60.0 | 60.0 | 60.0 | 60.0 | 60.0 |
| 1005 GF/Program Receipts | 100.3 | 195.6 | 195.6 | 195.6 | 195.6 | 195.6 |
| 1037 GF/Mental Health | | | | | | |
| 1091 Designated Program Receipts | | | | | | |
| TOTAL | 130.3 | 255.6 | 255.6 | 255.6 | 255.6 | 255.6 |

Estimate of any current year (FY97) cost:

POSITIONS

| | | | | | | |
|---|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: *(Attach a separate page if necessary)*

See Attachment:

Prepared by

Rep. Mark Hanley, Co-Chair House Finance Committee

Phone 465-4939

Phone 465-4797

Rep. Gene Therriault, Co-Chair House Finance Committee

Date 4/8/98



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FISCAL NOTE(S)

STATE OF ALASKA
1998 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

LL NO. HB 272 (JUD)
PAGE 2 of 2
DATE 4/7/98

This fiscal analysis is based on the following:

*One pilot program will be established in Anchorage beginning in Jan. 1999. Program design will be developed June through December and the program will be implemented in January. Program costs are based on six months of operation for FY 99.
*The decision to designate an offender to the Electronic Monitoring program as an alternative to incarceration will be made by the Dept. of Corrections with guidance from the court through sentencing recommendations.
*No domestic violence or sex offenders will be put into the program.
*The program will have 60 slots available for a total of 21,900 person days of coverage annually.
*The Program will be administered through a contract with the private sector.

| | | |
|---|---|---|
| **Personal Services:** | **60.0** | |
| Probation Officer II in Anchorage at Sixth Avenue Correctional Center | | 60.0 |
| **Contractual Services:** | **183.2** | |
| Communication: Local, long distance, postage, DHL, other related costs | | 1.5 |
| Miscellaneous: Risk Management, other misc. costs | | 0.3 |
| Rentals and Leases: Lease of Electronic Monitoring Equipment (estimated) | | 120.5 |
| One drive by unit X $75.00 per month X 12 months | | 0.9 |
| Electronic Monitoring equipment installer, maintenance contracts | | 60.0 |
| **Supply:** | **12.4** | |
| Office Supplies: Consumable office supplies, duplicating supplies, etc. | | 1.0 |
| Scientific Supplies: Alcohol/Drug test cups for immediate field testing | | 10.8 |
| Data Processing Supplies: paper forms, diskettes, ribbons, etc. | | 0.2 |
| Other Operating Supplies: law enforcement supplies, safety and electronic supplies | | 0.4 |
| **Equipment: (one time)** | **2.5** | |
| Standard Personal Computer | | |
| **Total Annual Cost** | | **255.6** |
| **FY 99** | | **130.3** |

Electronic monitoring is used successfully in other jurisdictions as a cost-effective alternative to incarceration and has proven to be a good tool for enforcing curfews and monitoring offenders. The $11.70 per day cost of such a program in Alaska will avoid the much higher costs of the only other options currently available in our state - $100 per day in jail or $57 per day in a Community Residential Center.

There are various types of electronic equipment currently in use, including beepers, computerized-programmed contact devices using either voice or a worn device, transmitters, and continuously signaling devices. This fiscal note is based on known prices of one technology, "ankle or wrist bracelets", but is not intended to confine the use to any one technology. That is, the type of technology should be determined by an Implementation Planning Team, and could change as other technologies are developed or become available in the market place.

This fiscal note provides for a 6-month planning period for a pilot project in Anchorage and for 6 months of program implementation. The Implementation Planning Team will involve representatives from the courts, state and municipal prosecutors, Corrections, law enforcement, public defense and the private sector to assure program success.

# FISCAL NOTE

No: 1

Bill Version: CSHB 272 (JUD)
(H) Publish Date: 3/4/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date:
Title: "An Act to permit a court to order a defendant to serve A sentence by electronic monitoring..."
Sponsor: Representative Green
Requestor: H (JUD)

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING EXPENDITURES | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 | FY 04 |
|---|---|---|---|---|---|---|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | | | | | | |
| CHANGE IN REVENUES ( ) | | | | | | |

FUND SOURCE: (Thousands of Dollars)

| | | | | | | |
|---|---|---|---|---|---|---|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| OTHER | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY 98) cost: $

POSITIONS:

| | | | | | | |
|---|---|---|---|---|---|---|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

**ANALYSIS:** (Attach a separate page if necessary.)

This bill authorizes judges to permit the service of a sentence for a misdemeanor crime by electronic monitoring rather than incarceration in a correctional facility. Because the costs of such monitoring are to be assessed to the defendant, it creates serious equal protection problems - reserving jail for the poor. It also makes tampering with the device or leaving the designated place of confinement a misdemeanor crime of unlawful evasion. Given the restriction on availability to those who can pay for it, and the current cost of such a program, it is unlikely that this will greatly increase the Agency caseload immediately. However, this technology is becoming more affordable and widespread. Future fiscal impact is uncertain.

Prepared by: Barbara K. Brink, Director
Division: Public Defender Agency
Phone: (907) 264-4414
Date:

Approved by Commissioner: Mark Boyer
Agency: Department of Administration
Date: 4/1/98

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0:HB272

# SENATE COMMITTEE REPORT

DATE: 4/18/98

FURTHER: Finance

DATE TURNED IN TO OFFICE: 5-7-98

Judiciary Committee considered CS FOR HOUSE BILL NO. 272(FIN)

"An Act relating to allowing the commissioner of corrections to allow a prisoner to serve a term of imprisonment or period of temporary commitment by electronic monitoring; and relating to the crime of escape."

and recommends:

[ ] be **replaced** with _____ CS _____(_____)

[ ] adopt **previous** _____ CS _____(_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

**Senate Bill:**
[ ] same title
[ ] new title

**House Bill:**
[ ] same title
[ ] technical title
[ ] new: SCR#_____

| SIGNING DO PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|---|---|---|---|---|---|
| Mike Miller | X | | X | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| CHAIR: Robin L. Taylor | X | VICE CHAIR: | | | |

**NEW FISCAL NOTE(S):**

| Department | Date | Zero | Fiscal |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

**PREVIOUS FISCAL NOTE(S):***

| Department | Date | Zero | Fiscal |
|---|---|---|---|
| CORRECTIONS/A & O | 4-8-98 | | ✓ |
| ADMIN - PDA | 2-17-98 | ✓ | |
| | | | |
| | | | |
| | | | |
| | | | |

[ ] APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill