



South Dakota Legislative Research Council

Issue Memorandum 95-25

ELECTRONIC MONITORING: AN ALTERNATIVE TO INCARCERATION

BACKGROUND

Prison and jail overcrowding is one of the most serious issues facing corrections professionals today. It is also a subject that draws considerable, and sometimes heated, debate among elected officials.

Overcrowding is not isolated to one or two problem areas in this country. In fact, it is often a contentious issue regardless of geography. In the past decade, America's prison population has grown at a rate over ten times that of the general population.

In fact, the United States uses incarceration as punishment more than any other country in the world. In 1993, the U.S. averaged 455 individuals behind bars for every 100,000 population. This compares to 311 per 100,000 in South Africa, 97 per 100,000 in the United Kingdom, and 46 per 100,000 in the Netherlands. By comparison, the United States incarcerates 4.7 and 9.9 people for every person jailed in the U.K. and the Netherlands, respectively.

Legislatures are faced with the double-edged sword of protecting the public from criminals, while attempting to keep appropriations down. Over the last decade, national per capita expenditures grew 21 percent, while corrections expenditures grew 65 percent. In South Dakota, corrections appropriations have increased from almost \$23 million in FY 1991 to nearly \$36.7

million for FY 1996. This represents an increase of \$13.7 million, or almost 60 percent, over FY 1991 appropriations. Even this large increase does not include the special appropriations that have been passed for capital construction of new facilities or remodeling of existing ones. With such large increases in just six years, it is clear that South Dakota is not immune from these national trends.

If expanding capacity within the prison system is not an acceptable option, then other avenues must be explored when the prison population continues to increase, as it is doing here in South Dakota. One possibility that some jurisdictions have explored is electronic monitoring/home detention. Whether it is referred to as electronic monitoring or home detention matters little. Some jurisdictions use one term over the other, but often the substance of these programs is very similar.

Currently, electronic monitoring (EM) is being utilized at all levels of government-- federal, state, county, and local. It is being applied as a part of other programs, as well as standing alone as an alternative to incarceration. It is applied to juvenile, as well as adult cases. The fact is, that for better or worse, EM utilization by corrections professionals continues to grow.

TYPES OF EM

Electronic monitoring can be active or passive. Active monitoring is the type of EM which is most often utilized. This is because active monitoring allows 24-hour surveillance. In active monitoring, a transmitter is attached to the offender's wrist or ankle. This transmitter sends a signal which is relayed to the supervising office. This signal can be relayed through the offender's home telephone or via a radio frequency. When done via radio frequency, offenders can be tracked outside their homes and immediate surroundings. This is the more preferred method.

Passive monitoring often requires the offender to wear a transmitter but does not offer constant surveillance. In passive monitoring, a computer program is used to call the offender at random during hours designated for home confinement. To confirm his or her presence at home in some systems, the offender places the transmitter into a verifier. Another method of passive monitoring is voice-verification. This requires the offender to speak into the verifier, which compares the speaker's voice pitch and other qualities with a recorded template of the offender's voice stored in the supervising office's computer.

Some monitoring equipment offers remote alcohol testing as another feature. If part of an offender's sentence requires alcohol compliance, the offender's breath can be checked for alcohol at any time. This is done by having the offender breathe into a remote alcohol testing unit. This unit combines voice verification with the breath testing technology common among law enforcement circles. By using voice verification first, the When used in this manner, EM is likely a condition of parole. This is considered back-end diversion; electronic surveillance is used to control the prison population by releasing inmates earlier. There are other stages in the

unit does not allow the offender to have another person breathe into the testing unit. Once the offender's face makes contact with the testing unit, contact must be maintained until the test is complete. This assures that the proper individual is breathing into the testing unit. Remote alcohol testing may make EM acceptable for some offenders whose history suggests that alcohol compliance is a necessary part of any sentence or program.

RATIONALES FOR UTILIZING EM

The reasons for utilizing EM can vary widely from one jurisdiction to another. Some intend to keep non-violent offenders out of the prison system to alleviate overcrowding and "hardening" non-violent offenders. Others feel that if offenders are out on EM, they can work, pay taxes, pay child support, victim restitution and/or part or all of their program's cost. Any combination of these conditions has been cited by officials from across the nation supporting EM usage. Another, perhaps less appealing, reason for using EM is that the existing prison system cannot handle any more prisoners. In these cases, jurisdictions often determine they can hold only the most violent offenders for any considerable length of time.

Oklahoma, for example, got into EM solely to reduce overcrowding. During the month of June 1995 alone, over 200 offenders were placed on electronic surveillance. In order to avoid triple-bunking inmates, the state of Oklahoma has continued to rapidly increase the number of offenders on EM.

adjudication process where EM has been and is being used in different locations. In addition to back-end diversion, there are also instances where EM is being utilized as an

intermediate sanction and as a front-end diversion.

Intensive Supervision Probation (ISP) is an option that is growing in use around the nation. Supporters believe ISP programs can relieve prison crowding and maintain public safety--at a cost savings. Another reason ISP has gained increasing support has been the feeling that it meets a need for greater latitude in sentencing.

Intensive Supervision Probation programs are usually an intermediate sanction. An intermediate sanction typically is an alternative to incarceration that allows corrections professionals to keep tabs on an offender, often with expanded services for the offender. An ISP often imposes conditions on program participants that are similar to most EM programs. Usually, offenders are required to hold jobs, pay victim restitution, submit to unscheduled drug and alcohol testing, and pay part of their supervision costs.

In some jurisdictions, traditional probation officers carry caseloads of 150 to 200, while ISP officers typically range from 20 to 50. The national average ratio of offenders to supervisors is about 25:1. In jurisdictions that allow higher security offenders on EM, the ratio is lowered, often ranging from five to ten offenders per supervisor.

ISPs offer a middle ground for crime control.

Whereas prison represents the strongest and This latter example would seem to benefit states like South Dakota that have sparsely populated areas with similarly sized budgets.

The federal government has specific guidelines for juvenile detention centers. Any county without an appropriate juvenile detention center, must transfer the juvenile offender to a detention center within six hours. Typically, counties shipping juveniles

traditional parole/probation the weakest, ISPs provide more control than typical parole, but less than prison. Theoretically, offenders in ISP programs are deterred and constrained from committing crimes because of the added surveillance. The theory goes then, that recidivism should be reduced. These programs can be used to alleviate overcrowding at either end of the process and can apply to either juvenile or adult offenders.

In Wisconsin for example, it serves as an alternative to outright parole for adults. In the Wisconsin ISP program, transmitters are placed on offenders while they get reacquainted with the outside world. This program provides more supervision than traditional parole, while granting parole to offenders who might otherwise be unsuitable.

Texas, on the other hand, has a program for juveniles that focuses on front-end diversion.

It attempts to keep offenders out of jail for as long as might be deemed appropriate. This program allows counties to operate EM programs for problem juveniles. In this program, offenders are fitted with a transmitter and monitored throughout the pre-adjudicatory period. This ranges from their arrest to their court appearance. This time can vary, depending on the caseload of the jurisdiction in question.

out must pay daily fees that are often quite substantial. In Texas, EM is also used as part of probation, or as a penalty for violating probation. Like Wisconsin and many other states, Texas has an ISP program and includes EM as a component.

PROS AND CONS ASSOCIATED WITH EM

Electronic monitoring proponents cite several points that seem to support usage. Of course, with an issue like this, opponents can also call upon several reasons to avoid using EM. Whether EM is appropriate is often a policy decision, because several advantages and disadvantages of EM are clear.

One point EM proponents often make is that monitoring allows the offender to be reintegrated into society, gradually, with supervision, while working and applying wages earned toward predetermined areas. Often, these include paying part or all equipment costs. Other common payments include victim restitution and child support. Further, like any other worker, wages earned are subject to taxes.

Cost savings to the taxpayer is closely tied to the previous point. Applying the offender's wages to one or more of the areas mentioned benefits those receiving payment, but it also reduces the necessary tax allocation for every offender being monitored. With the offender contributing, and with the total program cost less than incarceration, the possibility exists for savings.

In jurisdictions that use EM, the number of escapes has been low and the incidence of repeat offenses seems to be reduced. In most jurisdictions using EM, offenders that have successfully completed a monitoring program have been less likely to reoffend. Therefore, EM supporters claim that such programs are a success at reducing recidivism. Most programs require that offenders have jobs, telephones, and fixed residences to participate. Many times, these conditions seem reasonable, even necessary. Critics of EM argue that this discriminates against offenders who are poor. In fact, those programs that are rigid in such requirements

recidivism, controlling prison populations, reintroducing offenders into society, and arresting the growth of corrections spending.

Electronic monitoring opponents can point to examples that, they argue, show why it is not the panacea some might claim. First of all, it may be somewhat cheaper than incarceration, but it still can require significant expenditures. If a jurisdiction were to purchase its own monitoring equipment, there is often a rather sizable initial investment. Wisconsin, for example, invested over \$500,000 in 1988 for monitoring equipment. Those contracting for use of equipment usually get a better daily rate if they assure the provider a certain usage level or agree to a multi-year deal. Many jurisdictions rent the equipment until they have had an opportunity to assess their program's effectiveness.

Another reason some states have been hesitant to get involved in EM is the fear that more staff will be needed to adequately run such a program. In truth, virtually every jurisdiction that uses monitoring has added staff to some degree. In some cases, because of the increasing prison population, the larger caseload would have occurred anyway, and at least some additional staffing would still have been necessary. One constant across all jurisdictions using monitoring was that all said proper staffing and supervision were essential to the program's success. The program must not only detect a violation but must possess the ability to respond quickly. It could inadvertently eliminate a portion of the prison population from eligibility. Many jurisdictions have attempted to address this potential shortcoming.

Perhaps the strongest argument against EM is that an offender is not prevented from

committing a crime, even while under surveillance. There have been cases where offenders under surveillance have committed new, sometimes very serious and disturbing, crimes. For instance, if offenders must remain within their homes at night, they could still engage in illegal activity. As long as they remained in their homes, the monitoring equipment would have no way of detecting any wrongdoing.

Offenders that dare can also "make a break for it." Because they are under surveillance, authorities would know within a short time if they were attempting flight, but there would still be no physical obstacle to such an attempt. Officials that have been involved in EM say that perhaps the best defense against escape attempts is a thorough screening of all prospective program participants.

OTHER STATES' EXPERIENCE WITH EM

Wisconsin

Wisconsin has used EM since 1988. They purchased units that operate on radio frequency. Their system operates approximately 1,000 units per day. This figure is broken down into three programs. The ISP program contains the largest segment of the EM population, about 600. The probation and parole division includes EM as a sentence component for about 150. All offenders on EM in Colorado currently are in the Intensive Supervision Probation program. The ISP program has been in operation for about two years. Recent figures by Colorado officials estimate that there are 425-450 offenders in this program and that it has had similar effectiveness to their traditional probation and parole programs.

Officials estimate an 85 percent success rate for offenders that complete this program.

offenders at a time. Meanwhile, the state contracts 250 units with counties to use in juvenile cases.

Costs associated with this operation are broken down into two categories. The equipment charge is \$5 per day. In most cases, this is charged to the offender. Offenders in the probation and parole division and those under county supervision are charged this rate. For offenders in the ISP program, the daily cost is \$18. This difference is due to the substantial increase in staff contacts, along with chemical dependency treatment and testing.

Wisconsin officials did have to increase staff by six FTE in order to monitor offenders on EM to their satisfaction. Officials also estimate escapes from the ISP program at about five percent, with recidivism for all offenders under EM at about 15 percent.

Colorado

The state of Colorado allows counties to establish their own programs, provided they meet standards set by the state. Counties must also report to the state frequently on their EM operations. Only adults are admitted into the EM program in Colorado. The state has allowed EM in some form since 1987.

One key point, however, is that the ISP program has increased the number of offenders offered parole by about 400. Therefore, this program has placed some offenders on parole that previously would not have been considered suitable.

Electronic monitoring costs in this ISP program average \$8.03 per day. This includes \$4.10 per day for the equipment, \$2.50 per day for telephonic contact, and a \$10 weekly charge for chemical dependency

screening. As in other programs, offenders are charged for part or all of this cost.

Staffing had to increase by about 18 FTE for the Colorado program. State policy set 20 offenders as the maximum number that can be assigned to an individual probation officer. This same policy calls for one clerical staff per 100 cases. Due to the overall increase of 300 cases on EM since the start of the ISP program, there have been 15 officers and three clerical staffers added to monitor this program.

Nebraska

The EM efforts in Nebraska are also included in their ISP program. This program has also been increasing. Started in 1990, the Nebraska ISP program initially called for an increase of 20 parole/probation officers. Due to the increased caseload, increased staffing was approved in the last legislative session. Five positions are to start in September of this year. Another five officers are scheduled to start by January 1996. Nebraska policy calls for a cap of 20 offenders on EM per officer.

Nebraska has a total of 243 EM units, with about 125 in operation at all times. Their computer system has a current monitoring capacity of 400 units. The number of offenders in the ISP program usually runs 400-500. All offenders admitted into the ISP

5) Drive-Bi Units--with a range of about 300 feet, officers can determine if an offender is where he should be. Need only one or two of these if usage is coordinated.

6) Host Computer--handles signals from all monitoring units. Five years ago, cost about \$125,000.

The total investment was about \$720,000. This included: \$437,000 for home monitoring units, \$128,000 for transmitters, \$8,000 for straps, \$15,000 for activators,

program are placed on EM for a minimum of 90 days. If an offender shows that they are a good candidate to remain in the program without the EM unit, it is removed.

Offenders continue to wear the transmitter for however long is deemed appropriate. Typically, offenders do not wear the units for more than six months. Still, some who have successfully completed the program have continued to wear the transmitter for up to one year.

Nebraska's EM efforts are growing. On January 1, 1995, the ISP program contained 400 offenders. About 100 were on EM. As of August 25, there were 496 offenders in the ISP program, with 127 on EM. Officials in the Nebraska Department of Corrections feel that funding is the only obstacle keeping the program from growing even more.

Nebraska purchased their monitoring equipment five years ago. Components included in this purchase were:

1) Home Monitoring Devices--these are hooked to the offender's telephone.

2) Transmitters (Bracelets)--need one for each offender on EM.

3) Straps--each time a bracelet is changed, it must be cut off, need 400-500 per year.

4) Activators--handles frequency for units, need one activator for every ten units.

\$7,000 for two drive-bi units, and \$125,000 for the host computer. With all costs considered, this computes to an average daily cost per unit of \$8.12. If calculated over just the average number of units in use, the daily cost increases to \$15.50-\$16. This consideration might be useful, because if only 125 of the 243 units are in use, the investment still must be paid, but over 100 units are not in use. Due to maintenance and repair, loss, or simply waiting for inmates to

be approved for EM, it is often necessary for some units to be idle.

Michigan

Michigan has more offenders on EM than South Dakota has in its entire state system. In statewide usage since 1987, there are currently 2,700 individuals on EM in Michigan. Michigan is a good example of how EM can be used at any stage of the adjudication process. Electronic monitoring is used for front-end, back-end, and intermediate diversion and is utilized in several different programs.

The largest component of this total is circuit court probation. Offenders that are sentenced to EM probation comprise 1,400-1,500 of the state's total. This serves as front-end diversion for some non-violent offenders. In these cases, EM is used to keep offenders [out] of incarceration [that are not considered a public threat]. Those on this program are usually property offenders.

There is also a Community Prisoner Program which operates similar to the ISP programs Michigan's program has a net daily cost of approximately \$6.50 per offender, after charges are collected. This is paid by the state or contracting entity. Collections from offenders in the program average about \$3 per day, even though most are charged \$6.50 per day. Some offenders--those attending school, for instance--are not charged. Further, some offenders are not making enough money to pay the entire daily EM cost and also meet other payments, like child support, that are mandated by their sentences. In these cases, the state assumes part or all of the equipment cost in order to allow the offender to remain in the program. The policy holds that if the offender can maintain a job, stay out of prison, pay child support or other required payments, and pay

mentioned earlier. This includes reintroducing the offender into the community and using heightened supervision to reduce recidivism. There are 1,400 offenders in the community program, with 1,000 of these on EM. These prisoners are participating in a back-end diversion effort.

Minor parole violators comprise a segment of the corrections population receiving EM as an intermediate sanction. These offenders are offered EM as a second chance before being sent back to prison. This program operates about 200 EM units.

Approximately 200 other EM units are contracted out. The Michigan Department of Social Services contracts 100 units which are used within the juvenile system. These units are aimed at offenders awaiting their court appearance or placement in a juvenile detention center. The final 100 units are contracted with local authorities. Local officials are free to utilize these units for either adults or juveniles.

even a portion of the EM costs, it is better than incarcerating that individual. This is how the system-wide average daily cost is computed.

While Michigan is flexible regarding payment, it maintains a rather rigid stance toward enforcement and program eligibility. Michigan's policy states that nobody convicted of a sexual offense, serious assault, or drug distribution can be eligible for EM. Michigan also takes a "zero tolerance" approach to violations. If an offender is late getting home from work, ingests alcohol or drugs, or otherwise violates the conditions of the program, he is charged with escape and returned to incarceration.

Under this strict escape policy, about 7.5 percent of offenders in this program have been charged with escape. The majority of those charged with escape, 63 percent, were gone for four hours or less and could soon be eligible for some sort of intermediate sanction. Another concern for EM opponents is that offenders out on monitoring will commit new crimes while on the outside. There have been cases where this has happened, but it has been rare. Of 9,488 offenders that were placed on EM in FY 1994, 207, or 2.2 percent, committed new crimes.

Staffing for the Michigan EM program is maintained at a ratio of 30-35 offenders per officer and one computer person for every 90 offenders on the system. This ratio for EM offenders on parole or probation is much smaller than traditional probationers. Officers in the traditional probation program carry 80-90 offenders on their individual caseloads.

Oklahoma

As mentioned earlier, Oklahoma became involved in EM to relieve overcrowding and to delay or avoid constructing more prisons. This approach has turned Oklahoma's EM Oklahoma has tried different types of EM and still offers a variety of services in an attempt to meet the program participants' needs. When the state first became involved in EM in April 1993, voice verification was chosen. This is the cheapest form of EM because it can be done by computer and requires little staffing. Cost estimates for this were placed at about \$2.25 per day.

Officials with the Oklahoma Department of Corrections then moved to transmitter bracelets. The bracelets currently cost \$3.49 per day. This does not include staffing costs, so it is clearly more expensive than voice verification. Still, officials prefer this method

efforts almost exclusively toward back-end diversion efforts. Judges in Oklahoma can order EM as a condition of parole or probation. This program is geared toward non-violent offenders. Offenders that officials deem to be acceptable candidates for early release are placed in the EM program to save prison space for more violent offenders. This approach has led to a booming growth in EM usage.

As of August 15, 1995, the state had 920 offenders out on electronic surveillance. An official within the Oklahoma Department of Corrections predicts this segment of the prison population will exceed 1,000 offenders before October 1 of this year. Again, there were over 200 offenders placed on EM in the month of June 1995 alone.

Offenders become eligible for EM on an individual basis. There is no requirement that offenders serve a minimum percentage of their sentence. Some offenders on EM have served as few as 30 days in prison, while others may have served years. Each offender's eligibility is determined by corrections officials.

because it allows better tracking of the offenders.

Another option for offenders considered in need is chemical dependency (CD) testing. Usually, offenders receiving CD testing are fitted with bracelets. In the case of alcohol testing, this can be done via a remote unit, as described earlier. This is the smallest component of the EM population, with the daily cost for equipment placed at \$5.49.

Oklahoma is expending considerable resources on its EM program. For the month of July 1995 alone, the total was approximately \$72,000. Estimates for this

fiscal year's total expenditures range from \$800,000 to \$900,000.

When this program was started, 12 additional FTE were granted. Officials feel this was appropriate for the program's original caseload. The program's rapid growth, however, has created a larger caseload per officer than officials are comfortable with. Ideally, officials say, the workload would not exceed 50 cases per officer, but currently approaches 100. EM work is not done exclusively by these eight officers. These positions were added to the parole and probation staff. Unlike some other states, this division handles all offenders out on parole, not just EM offenders. Therefore, the individual caseload is not a true comparison to other states, like Michigan, for instance.

Texas

Texas, like Colorado, sets standards for EM programs but gives counties the authority to establish plans that best fit their needs.

The number of offenders handled by each officer varies by county. One county has a maximum caseload of 20 per officer, while others allow as many as 35 cases per officer.

A staffing increase was necessary in each county to ensure there would be an officer available to respond to violations 24 hours a day. These increases ranged from just one FTE to several, depending on the individual office's caseload.

While not expanding at Oklahoma's rate, Texas has continued to increase its EM utilization in juvenile cases. For calendar year 1994, there were 2,604 cases in the state where EM was at least part of the sanction imposed. This figure exceeded the previous year's total of 1,976 cases. State officials estimate that between 740 and 775 units are in operation at a time. This is an estimate because counties do not have the

Texas has allowed EM for adults and juveniles since 1989. Both are in extensive use statewide, but this example will focus on juveniles.

Typically, counties use EM for front-end diversion, watching problem juveniles prior to their court date. This has been preferred to constructing more juvenile detention centers that meet federal standards. Juvenile offenders awaiting their court appearance constitute nearly all of those on EM in Texas's juvenile system.

Texas has an ISP program and, like other states, includes EM as a sentencing option. Some counties include all juveniles in the pre-adjudication stage in their ISP program, and EM is an integral part of this policy. Another common use of EM is as a penalty for violating probation. Most counties operate in largely the same manner but tailor some procedures to their individual situation.

same equipment arrangements. These figures can fluctuate frequently as some contracts are renewed, reworked, canceled, or counties opt to purchase their own equipment.

Some counties lease equipment and others have purchased their own. Those purchasing said that leasing is good for a jurisdiction to determine which equipment best fits their needs. Once comfortable with those needs, officials decided purchasing would be more cost-effective. The daily cost of leasing equipment ranges from about \$3.50-\$4 per unit. Escape attempts have occurred, but officials estimate that these are usually less than ten percent of the total caseload.

South Dakota

The federal probation and parole program has utilized EM since 1990. The federal

probation and parole district for South Dakota has used EM since 1992. This is a fairly small undertaking in terms of actual numbers, but it does provide a current example for the state. As of August 15, 1995, there were nine transmitter units monitoring offenders in South Dakota.

According to a federal official based in Sioux Falls, six of those units are monitored by the Sioux Falls area district office, two by the Rapid City office, and one by the Pierre office. All these individuals and any future offenders monitored by this office are parolees. In other words, all are early releases from the federal prison system and EM was required as part of their parole. Sometimes, if an offender who is not on EM violates terms of his release, the addition of a transmitter is used as another attempt to keep the malefactor out of prison. This, again, is back-end diversion, using an alternative to incarceration after the offender has already been imprisoned.

Offenders in this program usually pay for the cost of the monitoring equipment. The

current contract charges \$4.97 per day. Staffing expenses are not included in this figure. According to local officials, the number of offenders handled through the district has remained similar; however, the types of work done by parole agents has increased. Because of these increased duties, there has been a small staffing increase over the past two years. Local officials stated that it would be difficult to distinguish what increases were related to EM. Again, some increases would have been necessary with or without EM. In monitoring offenders, officers do not rely solely on technology and continue to make several contacts with the offenders. In this manner, this program mirrors many states' ISP programs.

In the three years EM has been used, escapes have not been an issue. There has only been one case where an offender violated conditions of the EM program. This violation involved alcohol, so there has not been an instance where an offender attempted flight.

ELECTRONIC MONITORING DATA BY STATE				
STATE	YR BEGAN USING EM	TOTAL # OF UNITS IN USE	DAILY COST/UNIT	ANNUAL COST/UNIT
WISCONSIN	1988	1000	\$5--P&P Div. \$18-ISP	\$1,825-P&P \$6,570-ISP
NEBRASKA	1990	243	\$8.12	\$2,963
MICHIGAN	1987	2700	\$6.50	\$2,373
COLORADO	1987	425-450 (est.)	\$8.03	\$2,931
OKLAHOMA	1993	920	\$3.49--EM only \$5.49--CD&EM	\$1,274-EM \$2,004-cd&em
TEXAS (Juveniles)	1989	740-775 (est.)	\$3.50-\$4.00	\$1,278-\$1,460

SOUTH DAKOTA (Federal Parole)	1992	9	\$4.97	\$1,814
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Electronic monitoring appears to offer advantages to a state or jurisdiction, provided officials do not enter into such a program with unrealistic expectations. Any jurisdiction that uses it had better be aware of both the advantages and disadvantages and take all facets into consideration before starting an EM program. For instance, the equipment cost is clearly much less than the cost of incarcerating an offender. Yet, the equipment is not the only cost of putting an offender on EM. There are staffing considerations, for instance. Likewise, ISPs are more costly than traditional probation or parole, in large part because they are highly labor intensive. Still, it is likely to be less expensive than building and operating new prisons.

Another consideration is construction. If avoiding new prison construction is a high-level priority, as it is in Oklahoma, then EM The program and overall corrections system might benefit if some of the more technical, less serious, violations not result immediately in reincarceration. Michigan, for example, had 715 cases of technical violations, but only 207 new offenses in FY 1994. Some jurisdictions, like Washington state, have moved toward a less stringent interpretation for what requires returning an offender to prison.

In 1993, Washington adopted new rules governing technical violations for parole and probation. Under these new rules, prison cannot be used as a sanction for technical violations; the maximum sentence for technical violations is 60 days in jail. Since this change took place, arrest rates for new crimes has remained about the same, while

likely becomes more attractive. The possible cost savings between an EM program and new construction costs could be considerable.

It also appears beneficial for states to maintain some flexibility in eligibility requirements for their EM programs, as some already do. Again, Michigan does not charge a daily fee to offenders enrolled in school full-time. Often, mothers who must remain home in order to care for young children are excused from holding employment and/or paying a daily fee. Sometimes, a poor offender is provided subsidized telephone service if they meet the program's other requirements. Whatever the approach, it seems beneficial for a program to remain flexible on some of these points.

revocations for technical violations have decreased. It is necessary for officials to be aware if such a practice would be acceptable to their constituency.

Another key issue is that no matter how strongly a plan is designed, there is always the possibility that some participants will violate conditions of their programs. Whether this involves offenders attempting to escape, committing new crimes, or technical violations, there will be times when public officials are questioned for placing certain offenders into an EM program. While working to keep such incidents to a minimum, it is essential that officials determine what is acceptable within their EM program.

Determining what infractions are acceptable will aid officials in selecting offenders for the program. For instance, property and drunken driving offenders tend to be most successful in EM programs; therefore, if only property and DUI offenders are made eligible, the success rate will probably be quite high. Restrictions like this, however, may not allow the program to meet other goals, like relieving overcrowding.

When designing standards for an EM program, officials need to consider fee structures and collection methods. Collecting fees from offenders can sometimes be frustrating and difficult. Those that do not pay can be returned to prison, and while that demonstrates a "get-tough" Regardless of what standards officials set, two seem to be essential to an EM program's success. First, that all offenders be given a comprehensive assessment to determine their suitability for the program. Second, that staffing be sufficient to enforce whatever standards of behavior are selected for the program. Proper enforcement gives the program credibility in the eyes of the

stance by officials, it may not accomplish the program's goals. In some cases, program administrators have charged offenders via their telephone bills. This operates similar to a "900" number. Jurisdictions using this approach have found that collections not only increased, but also were simplified.

Officials also need to determine how much expense the state will absorb in order to allow offenders into the program who might not be able to meet all necessary payments. If the program's goals are to reintegrate offenders into society, and relieve overcrowding, it may be necessary for the state or supervising jurisdiction to assume some of the program's cost.

offenders, and perhaps equally important, the public. As prison populations swell, corrections officials will be increasingly pressured to investigate all options at their disposal. Depending on program standards, community acceptance, and public policy directives, EM can be a viable option.

This issue memorandum was written by Chris Eitemiller, Fiscal Analyst for the Legislative Research Council. It is designed to supply background information on the subject and is not a policy statement made by the Legislative Research Council.
