

# VIRGINIA DEPARTMENT OF CRIMINAL JUSTICE SERVICES GUIDELINES FOR LOCAL ELECTRONIC/GPS MONITORING PROGRAMS

## Authority

In accordance with Item 370 of the 2010 Appropriations Act, the Secretary of Public Safety shall coordinate the development of a statewide system for the use of GPS and other electronic methods of monitoring offenders as an alternative to incarceration. As part of this system, the Department of Corrections shall establish contracts for GPS and other services and the Department of Criminal Justice Services shall develop guidelines and criteria for the use of these systems.

## Discussion

Electronic technology has been used since the 1980s to aid in the supervision of defendants and offenders. Since that time, the technology has expanded to include GPS tracking and a variety of other options for lower-risk offenders. Programs can be established as a jail release option, a direct placement option for judges, a graduated sanction, a component of community supervision, or a combination. When used appropriately, electronic monitoring programs have the potential to save dollars and reserve jail and prison bedspace for those who pose the most significant threat to public safety. However, such programs also have the potential of net-widening and therefore, steps should be taken to avoid overusing electronic monitoring with a pretrial population or low-risk offenders who could be released to the community regardless of the availability of such technology.

There are many issues to consider when developing an electronic monitoring program. Most of these issues will be dependent upon the target population (e.g., pretrial, post trial, or special needs) and the locality or agency administering the program. For local programs, many of the decisions regarding the utilization of electronic monitoring will be locally determined, though they should be consistent with the general state-level guidance provided in this document.

In addition to the guidance provided in this document, all electronic monitoring programs must adhere to the *Code of Virginia* and opinions of the Attorney General. The *Code* contains multiple references to electronic monitoring and related terms (electronic incarceration, house arrest, etc.) which apply to local agencies, jails, Courts, and/or the Department of Corrections, including: §§ 9.1-176, 9.1-176.1, 19.2-123, 19.2-152.4:3, 19.2-295.2:1, 19.2-303, 19.2-354, 37.2-908, 37.2-910, 37.2-912, 53.1-67.6, 53.1-116, and 53.1-131.2.

This document includes guidelines for localities to utilize when implementing an electronic monitoring program. The guidelines are divided into three categories:

- I. Establishing the Program's Purpose and Expectations
- II. Policies and Procedures for Participant Selection and Management
- III. Equipment/Service Selection

Localities wishing to implement an electronic monitoring program may find additional resource information in **Offender Supervision with Electronic Technology: Community Corrections Resource** (second edition), published by the Bureau of Justice Assistance (BJA) and the American Probation and Parole Association (APPA). This can be found on the APPA website at: [http://www.appa-net.org/eweb/docs/APPA/pubs/OSET\\_2.pdf](http://www.appa-net.org/eweb/docs/APPA/pubs/OSET_2.pdf)

## **I. Establishing the Program's Purpose and Expectations**

- A. The purpose of establishing a local electronic monitoring program is to reduce the non-violent jail population.
- B. Localities should determine which populations will be generally eligible for consideration in order to achieve the program's purpose. Options include, but may not be limited to:
  - a. Local responsible post-trial population
  - b. Local responsible pretrial population
  - c. Local probation technical violators
  - d. State probation technical violators
  - e. Special needs populations
- C. Localities should establish measurable goals consistent with the program's purpose and target population(s).
- D. The placement of certain populations in the electronic monitoring program may necessitate agreements between multiple agencies regarding release and supervision. For example, for a jail-based program, an agreement will be necessary with the Department of Corrections in order to release state responsible technical probation violators to an electronic monitoring program. Agreements with Pretrial Services or Community Corrections/Local Probation may also be necessary or beneficial to the program's success depending on the target population(s).
- E. The use of electronic monitoring should be part of an overall strategy to apply correctional evidence-based practices.
- F. Localities will need to determine which type(s) of electronic technology to use in an electronic monitoring program. The type(s) of electronic technology used can be different based on the population or risk-level.
- G. All electronic monitoring programs must adhere to the *Code of Virginia* and related opinions of the Attorney General. Since the *Code* is amended each year, localities should review it annually for changes to existing language and the addition of new language which may impact the operation of electronic monitoring programs.

## **II. Policies and Procedures for Participant Selection and Management**

- A. Localities should develop different policies and procedures for participant selection and management as needed depending on the target population(s) and the type(s) of technology used.
- B. Localities should use individual risk/needs assessments when determining an individual's suitability for an electronic monitoring program. Such instruments are best when validated for the population and when they include mechanisms for overriding the classification structure if personnel believe an offender to be more or less of a risk than is indicated by the instrument.
- C. Localities should develop policies and procedures which include, at a minimum:

- a. Placement assessment process.
- b. Criteria for including and excluding participants.
  - Examples of inclusion criteria *may* include:
    - Risk assessment results
    - Lack of serious criminal history
    - Willingness and motivation to comply with program requirements
    - Offender is primary caregiver for children or other family members
    - Pregnant offenders
    - Offender provides financial support to family
    - Offender has medical needs that can be best managed in the community
    - Victim agrees to community release
    - Offender can receive treatment in community
    - Reasonable expectation for victim/public safety
  - Examples of exclusion criteria *may* include:
    - Risk assessment results
    - Significant criminal history
    - Current or prior violent or sex offenses
    - Inappropriate behavior while in jail or prison
    - Failure in previous community correctional programs
    - Offender will reside in the community/residence with the victims (e.g. domestic violence or child abuse victim)
    - Severe substance abuse or mental illness that limits offender's ability to control his or her behavior
    - Victim does not agree to community release
    - Offender's living situation will not support the use of the selected technology (e.g., a land line phone is required, but the home does not have one)
- c. Supervision rules and restrictions. These may be standardized and/or individualized based on the individual's situation and technology used. Examples of such rules and restrictions based on the technology used may include:
  - Contact standards (frequency with which participants must report using automated reporting systems and the type of information they are required to supply when they report, office reporting requirements, etc.).
  - Frequency with which participants undergoing remote alcohol detection must use the test devices and whether this will be scheduled, random, or both.
  - Schedules for participants placed on home curfews; including times they may leave home for work, treatment, and other authorized activities and when they must remain at home.
  - Inclusion and exclusion zones for participants using location tracking devices.
- d. Process for handling alerts and violations to rules and restrictions (recognize various violation types). Include staff actions, timing of responses, and steps to take with the offender/defendant.
- e. Sanctions for violations and rewards for compliance.

- f. What, if, and how fees will be assessed, on what basis, and exceptions.
- g. If fees are assessed: payment process, documentation requirements, and deposit process.
- h. Parameters regarding the length of time a person will be in an electronic monitoring program.
- i. Process for determining and/or changing the type of technology used (if multiple types are available).
- j. Enrollment process, including Information that will be provided to participants when enrolled (rules, how equipment works, reporting in, how violations are handled, etc.), information provided to a service provider, forms to be completed/signed (including release of information agreements), and information to be maintained in the participant's file.
- k. Equipment set up and installation.
- l. Equipment inspection and maintenance.
- m. Community and/or victim notification when a defendant/offender absconds.
- n. A crisis management plan for handling emergency situations involving natural and man-made disasters. Such plans should include alternate reporting requirements for participants.
- o. Staff training.
- p. Data collection and reporting. This may include:
  - What data to collect
  - How/who to enter data into a computerized system
  - How/who to submit data to a monitoring vendor
  - How long data should be kept
  - Authorizing data to be purged by a vendor (if necessary, depending on the vendor contract)
  - How data is to be used for measuring program outcomes/success

### **III. Equipment/Service Selection**

- A. Localities will need to identify the type(s) of electronic technology to be used. The types vary in price and the most restrictive may not be necessary for all participants (for example, could a voice verification system be used for some participants vs. GPS?). Sometimes it may be necessary to use multiple types. Recognize that each system has benefits, limitations, and resource or staff requirements. There may also be various options within each type of system. Types of electronic technology include:
  - Continuous signaling house arrest devices
  - Mobile monitoring devices

- Location tracking systems (GPS)
  - Programmed contact systems (e.g., voice verification, video verification)
  - Remote alcohol detection devices
- B. When determining the type(s) of electronic technology to use, localities should be aware of potential liability concerns. For example, what added responsibility comes with the extensive information that can be gained through GPS monitoring?
- C. Localities will need to determine their needs for data storage and reporting, including, but not limited to: how data will be retrieved and analyzed, data retention, and reporting for evaluation purposes. Contracts with vendors should include any specific data storage and reporting requirements for which the vendor will be responsible.
- D. Localities will need to determine their needs for alert reporting, monitoring information, and enrollment information. Contracts with vendors should include any specific requirements for which the vendor will be responsible.
- E. Localities will need to identify the role the vendor is to have regarding supervision and monitoring vs. that of the agency. This may vary by locality based on size, program purpose and need, public and political will, etc. Generally, there are four types of relationships between public agencies and vendors:
- Comprehensive agency type: Agency staff performs all services including monitoring computer data, supervising participants, installations and removal of equipment, violation responses, and other tasks.
  - Extensive agency type: Monitoring of computer data is contracted to a service provider while agency staff performs all other tasks.
  - Limited agency type: A contracted service provider furnishes services beyond monitoring computer data, such as equipment installation and removal and equipment troubleshooting, while agency staff tends to case management issues.
  - Hands-off agency type: All services - including monitoring computer data and providing field services - are provided by an outside contractor. However, agency maintains legal authority and responsibility and makes ultimate decisions about responding to violations.
- F. Localities should ensure that contracts with vendors include provisions for staff training and equipment inspection, repair, and replacement.
- G. Localities are encouraged to test products prior to selection and should follow their local procurement process. When ready to move forward with establishing an electronic monitoring program, localities may benefit from using existing GSA contracts, multi-state cooperative purchasing agreements, or existing local/state agency governmental contracts in their negotiating process. These contracts are often open for use by other government agencies. The Virginia Department of Corrections (DOC) maintains a list of electronic technology contracts available for local and state governmental agency use. These can be found on the DOC website: [www.vadoc.state.va.us](http://www.vadoc.state.va.us).