

AN ALTERNATIVE TO INCARCERATION: JUVENILE HOME DETENTION AND ELECTRONIC MONITORING

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INTRODUCTION: THE HISTORY OF CORRECTIONS

House arrest or home detention is not new. The term "home confinement" or "home detention" will be used interchangeably instead of "house arrest". The term "house arrest" tends to connote police action and an absence of due process in the courts. Nevertheless, home detention has probably always existed in some form. The Apostle St. Paul, the last czar of Russia in 1917, and Winnie Madella in the late 60's and early 70's have experienced similar conditions of this concept.

When we review the history of corrections in the West, we see it has progressively become more humane in the treatment of offenders. According to Ball, Huff, and Lilly (1988) the history of corrections has progressed through three phases and we are now in a fourth phase. In Preliterate times the doctrine of *lex talionis*, or "an eye for an eye, and a tooth for a tooth" provided the basis for justice. It formed the rule by which vengeance could be gained. According to this principle, the injured party or a representative inflicted the original injury upon the malefactor. In many cases his own methods were used against him. The punishment fit the crime, and those who lived by the sword suffered under it (Schmalleger 1986).

In the early Middle Ages, criminals were punished by payment of fines, undergoing voluntary penance or suffering physical punishment. Crime was not a big problem; except for the nobility and the clergy, most people were in similar circumstances. Wealth was pretty much evenly distributed. According to Lilly and Ball (1987) there was no need for a peasant to steal from a neighbor what he could produce himself and there was little thought of excluding or isolating offenders from the community.

Also in the early Middle Ages, Henry II in 1166, established early jails (then called goals) which held prisoners awaiting either trial or the imposition of their sentence. The practice of serving time as punishment for a criminal offense did not exist until the late 1700s (Schmalleger 1986). In the United States the

Quakers experimented with this idea, of jails used for punishment, at the Walnut Street Jail.

However, things changed by the late Middle Ages, and the punishment of offenders entered a second phase. Social problems abound at this time: unemployment, crowded living conditions, low wages, crime waves and other problems. Religious authority was superseded by civil authorities and fines were of little use because the poor had no money and few possessions with which to pay. Corporal punishment became popular: public whippings, branding, mutilations, tortures of the body, along with execution, became the universal means of punishment (Lilly, Ball 1987).

Near the end of the Middle Ages, there were early signs of the third phase in the history of punishment of criminals. This was found in the house of corrections that appeared in Calvinist Amsterdam in 1596. The city fathers wanted to introduce labor and religious instruction as a means of correcting offenders. Although corporal punishment continued as the most popular means of dealing with offenders, there was a new humanitarian philosophy on the scene and this philosophy, joined with the Protestant work ethic, influenced the practice of corrections (Lilly, Ball 1987).

In England, this humanitarianism and work ethic was manifested in the bridewells where the urban poor, vagrants, beggars, and runaways were exploited while making of them willing workers. During this period, the demand and development of new markets overseas, along with the exploitation of raw materials and the need for the establishment and defense of permanent settlements, lead to policies of free transportation and indentured servants. With the rise in crime and vagrancy, penal transportation and banishment to the Colonies and Australia became a means of dealing with the crime problem in England.

In the United States, it was the Quakers of Pennsylvania who advanced humanitarianism in correctional punishments. The Quaker Code of 1682 had included only one capital offense, pre-meditated murder. The Quakers argued that corporal punishment,

flogging and mutilations should be replaced with the practice of imprisonment in a house of correction and hard labor (Lilly, Ball 1987).

In 1934, England started its first open prison with minimum security as a satellite of the large prison at Wakefield. Prisoners from Wakefield were selected to serve the last stage of their imprisonment in the open prison. They worked in the open air on a farm where they could maintain some contact with the free world and enjoy a less formal relationship, and in some cases a closer association with the staff (Sandhu 1974). The open prison experiment proved to be successful and spread in England. The open prison made its appearance in the United States in the form of honor farms and other prison work release programs.

It is the contention of Lilly and Ball (1987) that home confinement is a representation of the fourth phase in the development of European-North American correctional policy. This fourth phase reflects the use of technology, electronics and computerized means to monitor and supervise offenders. It is the home detention of juveniles with intensive supervision and electronic monitoring with which this paper is concerned. This paper specifically investigated the home detention of juveniles using electronic monitoring and supervision.

THE BEGINNING OF HOME DETENTION AND ELECTRONIC MONITORING

Imprisonment in walled institutions was becoming more and more expensive in the 1970s and we were also incarcerating more people. It seemed necessary to provide alternatives to incarceration. While still relying heavily on incarceration, the United States entered the fourth phase of punitive policy. This phase lays heavy stress upon the inclusion of the offender in what is termed "community-based corrections" (Lilly, Ball 1987).

In the United States, home detention has been in operation in St. Louis since 1971. The early programs were developed to deal with youthful offenders in their home with their families. It was believed that increasing numbers of juveniles were being unnecessarily, and unjustly, detained in detention facilities prior to adjudication (Lilly, Ball 1987). It seems that home detention for juveniles can be used as an alternative for bail proceedings. However, in all jurisdictions, juveniles are not allowed bail. Now with home detention,

juveniles who need to be intensively supervised and monitored, but are not violent, aggressive or assaultive, can remain at home until adjudication.

The first home detention programs were similar to intensive supervision programs for juveniles. It was believed that youth could stay out of trouble by assigning teachers or para-professionals to them who would personally contact the juvenile once a day and also maintain daily contact with the parents and the school (Lilly, Ball 1987).

Dr. Ralph K. Schwitzel could be considered the father of electronic monitoring. He first discussed the idea of using electronic monitoring devices to track the locations of probationers and parolees in the community in the 1960s (Schmidt, Curtis 1987).

A New Mexico district court judge was inspired by a comic strip where "Spiderman" was being tracked by a transmitter on his wrist. The judge approached an engineer with his idea. The outcome was an electronic bracelet approximately the size of a pack of cigarettes that emitted an electronic signal that was picked up by a receiver placed in a home telephone (Lilly, Ball 1987).

There are many advantages of home detention and electronic monitoring:

1. It eliminates the school of crime influence of the walled institution.
2. Warehousing is eliminated.
3. Eliminates inmate violence toward each other.
4. It costs less.
5. It can be combined with restitution and community service.
6. Home detention has perceived relevance to the organizational goals of the juvenile justice system. (i.e., avoidance of stigmatization, being able to continue in school and low cost to operate.)

The early devices, however, were primitive and many individuals extricated themselves from the devices. There are some disadvantages of electronic monitoring. Some negative aspects would be:

1. The equipment can be taken off.
2. Electronic phone lines going out of order.
Giving false negative readings, due to phone line disorders.
3. Using monitoring equipment with the use of other electrical equipment can interfere with transmitted signals.

4. If all monitoring is done by computers, if the computer goes down there can be no monitoring.
5. The outlook of the community that we are letting people off lightly by not incarcerating them. Some people feel it is no punishment being home on electronic monitoring.

ELECTRONIC MONITORING

Electronic home detention is the wave of the future in the corrections field. The potential for electronic home confinement is unending if used correctly. Equipment used in electronic home detention has progressed in both technology and reliability over the last few years and has become a main stay in many probation situations. The use of electronic monitoring with class 2, 3, and 4 offenders, coupled with random physical spot checks and appropriate supervision strategies has proven effective at helping inmates re-establish, and maintain family and community ties, and at reducing recidivism (*Juvenile Justice Report* 1991). A little known fact is that the U.S. imprisons more residents per capita (455 per 100,000), than any other nation in the world today. Most of our prisons and jails are operating significantly above their highest capacities. Such overcrowded conditions are believed to be primary factors in increased violence among inmates and ineffective operation of corrections institutions throughout the country (*Crime & Punishment Report* 1990).

If the objective of corrections is to punish, incapacitate and rehabilitate offenders, then the current statistics on overcrowding and recidivism rates speak clearly to the ineffectiveness of the U.S. corrections system as it is currently structured. There will always be a need for prisons to house dangerous criminals who would otherwise pose a threat to society. However, the throw-away-the-key sentencing guidelines of the 1980s have jammed our prisons and jails with many non-violent offenders. From the Department of Justice in Washington, D.C. to local citizen groups comes the call for alternatives: more effective and less expensive sanctions for nonviolent offenders.

Alternatives to incarceration are classified within a major category of the U.S. corrections system known as community corrections. At the heart of community corrections is the opportunity to maintain supervision of offenders and rehabilitate them through alternatives. With 4.51 million adults and a

record number of juveniles under correctional supervision in the U.S. today, electronic home detention as an alternative deserves serious consideration (*Bi-Electronics Report* 1993).

The use of electronic home detention has not met its potential in any of the areas looked at using this type of system. The system used in Los Angeles is based on the ability of the person placed on the program to pay the cost of the system to be used. For electronic home detention to be considered, the person must be employed, have a telephone, and be established in the community. This rules out most juvenile offenders. In Denver, Colorado and New Mexico, as well as many other places in the U.S., the same applies. The courts in these areas are not willing to accept the responsibility for paying costs for phones to be installed in the homes of the potential candidates for this system, nor paying the entire cost of monitoring the individual.

The equipment for electronic home confinement has become very sophisticated over the last few years. Today, it is possible to have equipment which will transmit a picture of the client, do an alcohol screening, or has a voice identifier to make sure the person is at home when checked. With these assurances built into the equipment, more reliability of proper identification of the individual answering the call is possible. There are still problems with electronic home detention but these come from expecting the equipment to perform miracles instead of being used in conjunction with other methods of home confinement (*Bi-Electronic Report* 1993).

The use of electronic home detention is seen by many probation and parole officers as a method of enabling them to have less personal contact with some clients on their caseload. It is also reported that the printouts of the contacts made, makes it easier to go to court in order to prove probation or parole violations on individuals. The use of electronic home detention is being used to make possible early release of persons from prison. This lets the person complete the court imposed prison time at home, when overcrowding of the prison system is causing major problems, or potential legal problems exist for the prison system. Research studies indicate that to date, less than one in four electronic home detention participants have failed to complete their programs successfully (*Crime & Punishment Report* 1990). Additionally, escape and recidivism rates for electronic home detention

participants are quite low as compared to the overall sanctioned population (*Juvenile Justice Report 1991*).

The use of electronic home confinement for early release of prison inmates is causing some concerns in the community. Some people feel the person is not being punished for the crime committed. Yet, this person being home is now taking care of his/her family because they are employed. The family generally is not on welfare, the children have both parents to provide guidance for them, and the marriage has a much better chance to survive instead of winding up in divorce court. The use of early release of prison inmates also saves the state penal system thousands of dollars by not keeping the person in prison. With the use of the home detention system, the inmate is paying for his or her own food, housing, clothing and transportation, the expense of keeping his/her family, and for the home arrest system used to monitor him/her. For first offenders or various misdemeanor crimes, this approach is optimal (Personal Interview, Juvenile Probation, Adult Probation Supervisor, 1994).

The electronic home arrest system used for juveniles is the same as that used for adults. Today, the emphasis is on punishment rather than rehabilitation throughout the criminal justice system, which is not working with juveniles. With juveniles getting into more and more violent and various types of criminal activities, electronic home confinement is just another holding type detention system. This does not seem to be working well with the adolescents because they see it as part of the punishment they receive. Most juveniles see the probation officer as a person who has nothing but punishment for them in mind and people are not to be trusted. They do not tell the probation officers anything more than they have to in order to respond to questions. Many times the probation officer does not ask the right questions because they have not received any reports concerning the individuals behaviors and compliance to home detention. The electronic home detention system can be modified as follows when applied to juvenile offenders.

The system will still be used as it currently is, with the addition of having a person, not a probation officer, make contact with the adolescent on a daily basis. If the crime the juvenile has committed is of a violent nature, the contact should be more than once a day. The person checking the individual will talk

with the juvenile on a one to one basis and form a relationship with the individual in order to help the individual handle problems which arise on a daily basis.

The people recommended for making these contacts are teachers working on a part-time basis-two to three hours per day. By using teachers, the training time to make them effective is reduced. Teachers are already fairly well-trained to recognize signals of behavioral problems before they occur. The teachers would report to the probation office and follow the program outlined in the probation treatment plan, which is mandated by law in most states today. With the person doing the checks not being connected directly with the probation office, the juveniles will relate more openly and discuss problems in more detail. The electronic monitoring company could be the hiring agency for these people, instead of the probation office. This will give the juvenile an open communication link with a person and this person will have more time to discuss what is going on at any one time with the juvenile. Most probation officers do not have that amount of time to spend with each juvenile on their case load.

In addition to the electronic home detention report, given the probation officer, the individuals doing home checks would also give the probation officer a weekly report. Decisions can be made based not only on reports given on the electronic home detention contacts by telephone, but also on the personal contact reports made on the person listing the observation made on each visit. Between the random contacts made by telephone and random contacts made in person by an individual, the juvenile will be better supervised and monitored throughout the period of being on home detention. Contacts should be randomly made to insure compliance. Treatment plans will become more meaningful and more in tune with individuals. The plans can be updated as the individual's needs change in a more timely fashion. The juvenile will be able to get the help needed to turn their life around, and become good citizens. This system will be better to prevent problems from occurring, rather than deal with the problems after they occur. The advantages of the new system are:

1. More one to one contact with the individual.
2. Less time allowed out of the home and off monitoring.

3. Better management of the individual while on home detention by the probation department.
4. Recognition of problems before they occur with the individual.
5. Treatment plans become more individualized and meaningful.
6. Gives more time to the probation officer to spend with individuals in the office.
7. Gives the probation officer frequent reports on the individual by an individual contact person knowing both the treatment plan and the needs of the person on home detention.
8. Gives the home confined person someone with which to discuss problems.

The disadvantages are:

1. It increases the cost of monitoring a juvenile.
2. It does give the individual on home detention less freedom to be out of the monitoring situation.
3. Training time for the individual monitors must be given on a continuing basis.
4. Probation decisions becomes a team decision including the non-probation connected monitor.
5. Many individuals will simply watch television rather than engage in any productive rehabilitative activities.

Electronic home detention with juveniles is less frequently used than with adults. Juvenile delinquency, in our opinion, is an offense where electronic home confinement is badly needed. The cost of the system and the home monitoring by an individual is justified

when you consider the likelihood the juvenile is more likely to not get into trouble again if managed correctly. The electronic home detention with individual treatment given the juvenile by the home monitor, also allows the individual to be given treatment quicker and helps stop repeat offenses from occurring. Last but not least, this procedure rebuilds the self-esteem of the juvenile in the program.

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