



## *Assessment of Electronic Monitoring as an Alternative Sentence to Imprisonment*

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### **Abstract ;**

Resorting to the deprivation of liberty penalty (imprisonment sentence), as a penal sanction, and its disadvantages have proved its effectiveness in achieving the social rehabilitation of the offender. This ineffectivity has made many criminal legislations tend towards adopting electronic monitoring as an alternative sentence to imprisonment to be implemented in an open milieu.

This kind of sentence sanction has relatively proven its effectiveness in limiting the bad effects of imprisonment, as well as in achieving the contemporary purpose of punishment. This spread has made imprisonment the last resort penal judges opt for. Thus, the modern sentencing policy tends to make the alternative sentences the principle and the imprisonment the exception.

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## 1. Introduction

Many countries have adopted electronic surveillance technologies and benefited from them in the field of punishing perpetrators of crimes instead of placing them in penal institutions. Algeria was among the countries that recently resorted to this technology; thus, it is the first Arab country and the second in Africa after South Africa to adopt this type of punishment method, as it is applied to people sentenced to specific penalties, and this penalty has a significant impact on the case of recidivism, and like all penal systems, it has negatives as well as positives.

From the above, the following problem can be raised: How effective is electronic surveillance as an alternative punishment to imprisonment in the social reintegration of the convict?

As for the method used, we relied on the descriptive analytical method in many study stations, such as studying people placed under the electronic surveillance system, for example, and comparing the penalty of public benefit work and electronic surveillance, and the negatives and positives of electronic surveillance, and we also relied on the comparative method by addressing many countries' experiences to assess the case of recidivism.

To answer the aforementioned problem and to determine the effectiveness of electronic monitoring as an alternative punishment to imprisonment, we will present the most important results reached through previous studies, especially experimental studies. The most important points

through which the effectiveness of this type of punishment is revealed are as follows: Types of persons sentenced to electronic monitoring; The impact of electronic monitoring on the phenomenon of recidivism; and the comparison between it and the punishment of public service work; The positives and negatives of electronic monitoring.

### **First: Persons subject to the electronic monitoring system**

Theoretically, jurists almost unanimously agree that alternative punishments in general and electronic monitoring punishment in particular are suitable for non-violent convicts.

Some believe that very dangerous persons and those with chronic violence should be excluded because they are not suitable to be subject to alternative punishments, as well as for perpetrators of crimes who do not pose any threat to the security of society (ARMSTRONG, REINER, & PHILLIPS, 1987, p. 3).

Previous studies also differed on the type of crimes that are suitable for electronic monitoring; some believe that this penalty was initially applied more to crimes against property, while others believe that this penalty was also applied to perpetrators of crimes against persons by some judicial authorities. Others believe that this penalty is more suitable for non-violent individuals. Some believe that this penalty can be applied to all categories except perpetrators of sexual crimes and murders. However, some studies have confirmed that perpetrators of violent crimes can be subject to electronic monitoring (ARMSTRONG, REINER, &

PHILLIPS, 1987, p. 3). Some have noted that identifying a specific category of perpetrators of crimes for electronic monitoring in society depends in part on the extent to which it is considered an appropriate and acceptable punishment by society, its judges, its elected officials, and its politicians. In contrast, some recent experimental studies have concluded the type of criminals that electronic monitoring is suitable for, which is that electronic monitoring is a tool to achieve intensive monitoring imposed on high-risk convicts, this form of monitoring has given good results in terms of reducing the rate of recidivism in this category. In the same context, some have concluded that intensifying monitoring of non-dangerous convicts may give adverse results, as it increases the rate of recidivism.

In a recent analytical study of seventeen (17) other studies on the effectiveness of electronic monitoring of convicts, this study concluded that electronic monitoring produces positive effects for some categories of convicts, such as sexual offenders, accompanied by other conditions (restricting their movements, for example) and providing appropriate treatment (BELUR, et al., 2017, p. 62).

Second: The effect of electronic monitoring on the phenomenon of recidivism

To clarify the effect of electronic monitoring on the phenomenon of recidivism, we mention the results of some studies conducted in this direction.

### **1- A Canadian study**

A study was conducted in Canada, which concluded that electronic monitoring does not affect the criminal

behavior of the convict. The same study concluded that the recidivism rate among convicts placed under electronic monitoring does not differ from the recidivism rate among convicts placed under the judicial probation system, taking into account the risk-needs factor. (BONTA, p. 63)

The same study confirmed that treatment is associated with a lower recidivism rate; intensive treatment imposed on convicts with a particularly high criminal risk yielded positive results. This demonstrates the importance of electronic monitoring as an alternative punishment. Highly dangerous offenders who were supposed to serve a prison sentence were placed under electronic monitoring and had a lower recidivism rate after treatment than offenders who represented the same level of risk and were released without following any treatment. In addition, more offenders who participated in the treatment program under electronic monitoring completed the program without incident compared to those placed under the judicial probation system who participated in the same program (BONTA, p. 63).

The study concluded that electronic monitoring can increase the allowance for placing high-risk offenders in the open environment, and can also reduce the number of cases of failure to complete the treatment program.

### **2- Argentine study**

In a study conducted by some in Argentina, conducted on a group of convicts released after serving their prison sentences and another group of convicts released after serving their electronic monitoring sentences; it was concluded

that the use of electronic monitoring significantly reduces the phenomenon of recidivism by approximately 48% compared to the rate of recidivism among those released after serving their prison sentences (DI TELLA & SCHARGRODSKY, 2013, p. 69).

### 3- American studies

In the first analytical study conducted by some, it was concluded that the results obtained do not encourage the use of electronic monitoring as a tool to reduce the crime rate. The study also concluded that for electronic monitoring to have positive effects, its use must be combined with a program containing other measures.

A second analytical study also reached the same conclusion, which is that electronic monitoring does not have a significant effect on the phenomenon of recidivism; The study also adds that this result is likely to change if the evaluation is completed in the future, and the study emphasizes that the positive thing about using electronic monitoring is its low cost compared to imprisonment. (DRAKEElizabeth & MILLER, 2009, p. 193)

Another study examined the effectiveness of electronic monitoring of dangerous offenders who are supervised in the community. The study used data on 75,661 convicts who were placed in home confinement in Florida from 1998 to 2002. This study concluded that electronic monitoring of any type, whether using a radio frequency system or a global positioning system, significantly reduces the following: likelihood of technical violations; recidivism; and escape among these types of offenders.

The results of a fourth experimental study indicated strong scientific evidence that using electronic monitoring as an alternative punishment to divert medium- and high-risk offenders from prison to community supervision is effective. In addition, placing offenders after prison under electronic monitoring produces positive results. Thus, the use of electronic monitoring has been useful in reducing the threat to public safety caused by criminal offenders who are punished in the community rather than in prison (BALES, et al., 2010, p. 153).

### 4- Swedish study

This study focused on a group of 260 people who participated in an early-release program that included electronic monitoring at home. This group was compared with another registered control group. Participants wore an electronic bracelet on their ankles and were required to engage in daily activity, which was obtained by the prison administration or judicial probation if this was not possible, and participants were subject to regular moderate monitoring. The study concluded that the recidivism rate in the early release group monitored electronically was significantly lower than in the other group, as the conviction rate in the first group was estimated at 48% three years ago and became 26% after three years, a difference of 22%; while the conviction rate in the second group was estimated at 44% three years ago and became 38% after three years, a difference of only 6%. (Fredrik & HOLMBERG, 2009, p. 41)

The study could not determine the reason for this result, whether it was due to electronic monitoring or to other

elements included in the program; and when the group was divided into three levels based on levels of criminal history, it was found that the difference between the early release group and the control group was significant, especially among those with an average level of previous criminality.

### **5- French study**

The French legislator drew inspiration for electronic monitoring from foreign experiences: Canadian, English, Swedish, Australian, New Zealand, and especially the American experience.

French penal legislation recognizes two types of electronic monitoring: fixed electronic monitoring and mobile electronic monitoring. If the first takes the nature of a method for implementing a prison sentence, temporary detention, parole, or release under duress, the second often takes the nature of a security measure.

In a recent French study, researchers concluded that replacing prison sentences with electronic monitoring has long-term positive effects on the phenomenon of recidivism, with a decrease in the probability of a new conviction estimated at between 9% and 11% after five (5) years; and that both rehabilitation and deterrence are important factors in reducing recidivism in the long term. Electronic monitoring can also be a cost-effective alternative to short prison sentences. The study included 2,827 convicts sentenced to prison, of whom 457 were placed directly under the electronic monitoring system and 2,370 convicts who served their prison sentences.

One of the most important findings of this study is the significant positive

effect of electronic monitoring among parents and, more importantly, among offenders who have already been sentenced to prison. The study considers this last finding as evidence that electronic monitoring is mostly effective for convicts who know their fate if they commit new crimes (most likely prison) and who do not view electronic monitoring as a mitigating and transient punishment but as a second chance. Conversely, the use of electronic monitoring on offenders who have never experienced prison may create harmful feelings of impunity, thus reducing the effectiveness of electronic monitoring.

The type and intensity of supervision under electronic monitoring also appear to affect recidivism. Electronic monitoring is very effective in reducing recidivism among those who have received at least one visit from the Judicial Probation and Integration Service during curfew hours, while it is not so effective for others. Targeting the most vulnerable offenders with monitoring visits is therefore a strong deterrent to preventing recidivism. The results of this study also indicate that electronic monitoring is more effective for convicts who have been on probation for a longer period (above the average of two months) and who were required to work while on probation, taking into account their previous employment. The study found that electronic monitoring failed to prevent recidivism among convicts who violated the rules while on probation (e.g., coming home late or leaving the house during curfew hours).

### **6- English Studies**

The electronic surveillance system in England and Wales is considered one of

the oldest systems in Western Europe. England and Wales conducted the first pilot experiment of electronic surveillance in 1989/1990, but they did not establish a national system until 1999, which became and remains the most widely used system in Europe (NELLIS & BUNGERFELDT, 2013, p. 278).

The first experiments of electronic surveillance in England began in 1988 by the Ministry of the Interior at the initiative of the Minister Mr. (John PATTEN). Three experiments were conducted in August 1988, by private companies (Chubb and Marconi) to provide the necessary technology, and a security company (Securior Staff) to manage the electronic surveillance.

The experiments at that time focused on temporary detention as an alternative to it, because that did not require legislation and parliamentary discussions and the opposition could reject it. The Ministry of Interior expressed its intention to introduce a curfew order accompanied by electronic monitoring in 1990. Since then, experiments have continued and the number of people subject to electronic monitoring has increased significantly, especially after the issuance of the Criminal Justice Act of 2003. (LOCKHART & PICKLES, 2015, p. 5)

The English penal system recognizes three forms of electronic monitoring: the first form is an alternative to temporary detention (pre-court as a condition of bail), and the second form is a method of early release (early release), introduced under the Crime and Disorder Act of 1998, whereby a convict who has served part of a prison sentence can be

released and remain subject to electronic monitoring for a maximum period of 135 days. This form can benefit all those imprisoned for a period ranging from three months to less than four years, except for some categories of those convicted of violent and sexual crimes, and this form is called home detention (Home Detention Curfew). The third form is a punishment that falls within community orders, and is called a curfew order with electronic monitoring (curfew order with electronic monitoring) and can be pronounced as a stand-alone punishment alone or can be accompanied by other measures (ARDLEY, 2005, p. 1).

A study conducted in England in 2001 on the evaluation of curfews accompanied by electronic monitoring concluded the following: Here, as evidenced by curfew surveys and the supervision of judicial probation officers, curfews can indeed help provide a managed transition between imprisonment and living in the community; it was also concluded that curfews accompanied by electronic monitoring do not affect the phenomenon of recidivism, as this effect is largely neutral about committing new crimes; Also, using curfews combined with electronic monitoring saved £36.7 million in the first year alone compared to putting curfew beneficiaries in prison (DODGSON & GOODWIN, 2001, p. 68).

A quasi-experimental study was conducted on 499,279 offenders who were discharged between January 2000 and March 2006, with 63,384 offenders benefiting from curfews with electronic monitoring. This study provided evidence that offenders who received curfews with electronic monitoring were no more likely

to engage in criminal behavior when released from prison than offenders with similar characteristics who were not eligible for early release under curfews with electronic monitoring. The study also found that the cost of monitoring an offender under curfews with electronic monitoring was lower than the cost of keeping an offender in prison (MARIE, MORETON, & GONCALVES, 2011, p. 1).

### **7- Belgian study**

The first beginnings of electronic monitoring in Belgium date back to 1998, when it was first proposed as an alternative to temporary detention by MP BLANPAIN. In 1995, electronic monitoring was put back on the political agenda, and in 1996 it was mentioned in the bill submitted by the then Minister of Justice, Mr. Stefaan DE CLERCK, entitled "Criminal and Penal Policy" as an alternative to temporary detention and as a way to implement the prison sentence (BEYENS & ROOSEN, 2016, p. 3).

Belgium adopted electronic monitoring as a pilot program for the first time as an experiment in Saint-Gilles prison in 1998 and then generalized this experiment to include the entire Belgian country in 2000. (BEYENS & ROOSEN, « Electronic Monitoring and reintegration in Belgium », 2017, p. 11)

The period extending from April 1998 to June 2000 is considered a trial period for electronic monitoring, meaning that it was allocated for experiments aimed at introducing electronic monitoring into Belgian penal legislation.

Belgian penal legislation recognizes three forms of electronic monitoring: the first is that electronic monitoring is

considered a method for implementing a custodial sentence; the second is that electronic monitoring is considered a method for implementing temporary detention; and the third is that electronic monitoring is considered an alternative punishment independent of imprisonment, work, and fines (LEGRAND, 2015, p. 7).

A study conducted in Belgium on 27 convicts sentenced to electronic monitoring concluded that most convicts agreed that electronic monitoring had positive effects on their reintegration into society. This study showed in particular that electronic monitoring may also contribute to achieving two distinct but complementary goals. First, it reduces the risks to society, because potentially harmful individuals are temporarily restricted in their freedom, albeit in a less restrictive way than their imprisonment in penal institutions. Second, electronic monitoring protects and motivates convicts to work by participating in work and leisure activities. This enables them to live a good life and pursue their dreams and personal desires in non-criminal ways. Thus, electronic monitoring can be considered an important step for convicts in regaining control over their private lives. (VANHAELEMEESCH & VANDER, 2014, pp. 273-287)

### **Third: The comparison between the penalty for electronic monitoring and the penalty for community service**

A study published in 2010 based on the results of an experiment conducted in Switzerland in 2000 on a random sample of 240 convicts sentenced to community service or electronic monitoring. This experiment relied on several criteria to compare electronic monitoring and

community service, which were: new convictions, self-reported delinquency, and several measures related to social integration such as marriage, income, and debt. The results indicate, based on convicts who completed their sentences, that those sentenced to electronic monitoring committed fewer new crimes than those sentenced to community service, and that they were often married and living in more comfortable financial circumstances.

The study also concluded that electronic monitoring is an attractive alternative in any criminal justice system in which non-custodial penalties are widely used, and thus the penalty for public service work may reach its "natural" limits. (KILLIAS, GILLIÉRONG, KISSLING, & VILLETIAZ, 2010, pp. 1155–1170)

#### **Fourth: Pros and cons of electronic monitoring**

Electronic monitoring has both pros and cons, which are:

##### **1- Pros of electronic monitoring**

The use of electronic monitoring as an alternative penalty to imprisonment has several pros and cons.

Among the most important of these advantages is the possibility of reducing prison overcrowding, and this advantage is considered one of the most important reasons for using electronic monitoring more than using it to enhance non-custodial penalties; its low cost also makes it more widely used than custodial penalties, which leads to the construction of fewer prisons.

Another of its advantages is the possibility of enhancing the social reintegration of convicts; Electronic

monitoring allows them to maintain their jobs and social relationships with their families, thus avoiding the negative effects of custodial sentences, although wearing an electronic bracelet carries psychological pressures. Another advantage is that the use of electronic monitoring makes society feel safer because convicts who do not comply and attempt to commit new crimes are arrested more quickly. (REZEMA, 2003, p. 2)

##### **2- Disadvantages of electronic monitoring**

The most important disadvantage of electronic monitoring is the lack of neutralization of convicts; electronic monitoring does not deprive them of their freedom or completely restrict their movement, and therefore dangerous convicts can commit crimes before the intervention of the security authorities.

The conditions of being under electronic monitoring, which are described as less difficult, can affect some victims, in addition to society's view of treating convicts who are subject to electronic monitoring as lenient treatment.

Another disadvantage of electronic monitoring is that its use may increase the severity of some penalties; an example of this is the use of electronic monitoring after the use of a suspension of the implementation of the penalty or judicial probation, which can lead to the expansion of the penal network. (FOXRichard, 1987, p. 141)

#### **Conclusion**

Electronic penal monitoring is the result of using the scientific developments achieved by technology in the field of

justice, and this technology has developed in various countries of the world and European countries in particular in a significant way.

This study reached several results and suggestions as follows:

- Electronic monitoring was adopted as an alternative to temporary detention and as a method of implementing the penalty of deprivation of liberty; Some countries have adopted this mechanism as an alternative punishment to imprisonment, thus giving more options to the judge to determine the appropriate punishment that is consistent with the convict and his personal and material circumstances on the one hand, and to avoid imprisonment altogether.

- Making imprisonment the last resort that the criminal judge resorts to.

- Contemporary penal policy tends to make alternative punishments the norm and imprisonment the exception.

- Regarding the evaluation of the effectiveness of the electronic monitoring penalty, it can be said that there are two contradictory trends. On the one hand, there is experimental evidence indicating that electronic monitoring has a deterrent effect on crime, as it has reduced recidivism. On the other hand, there is experimental evidence indicating otherwise. However, there is a space between the two contradictory trends indicating that conclusions cannot be drawn regarding its effectiveness due to mixed results. Therefore, more research is needed in this area.

Finally, we suggest the need to adopt other forms of electronic monitoring punishment in the future so that it can be ruled as an original punishment to avoid

the punishment of deprivation of liberty. More importance should also be given to the penal policy aimed at the social reintegration of the convict because the policy of a security and repressive nature has proven its limitations

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