Windam County Electronic Monitoring Program

Process Evaluation

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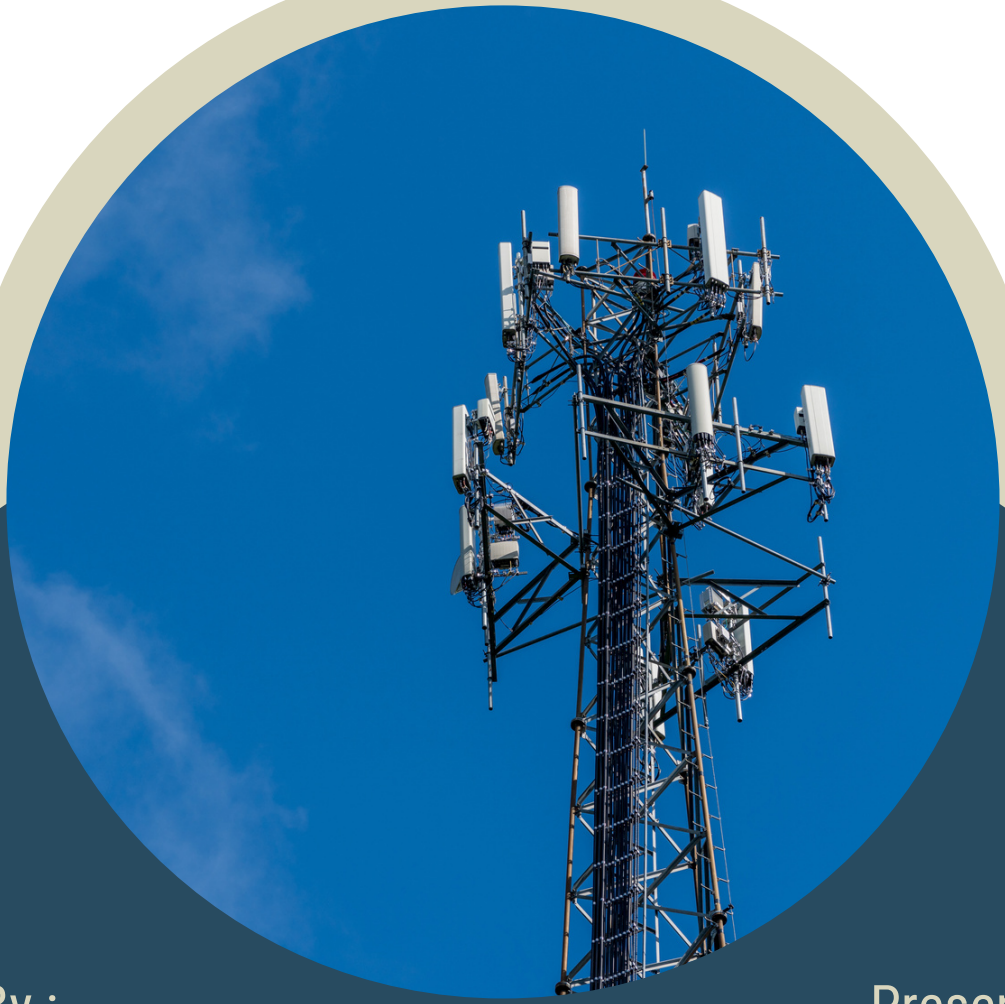

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Background

In 2013, the Windham County Sheriff proposed a pilot program to the legislature to "determine if electronically monitored home detention can be utilized for pretrial detention and as a post- adjudication option to reduce Department of Corrections costs, reduce corrections bed space demands, maintain or improve public safety, reduce transportation costs, increase detainee access to services, reduce case resolution time and if the program can be replicated statewide".[1]

The Windham County Electronic Monitoring Program (hereafter the EM Program) is the first in the state to provide 24-hour active monitoring of defendants through the use of the Global Positioning System (GPS) and cell tower technology. It is anticipated that the EM Program would reduce recidivism by approximately 22% compared to non-participants and accrue benefits to Vermonters and the state at the rate of $2,210 per successful participant.[2]

This process evaluation is the first of three evaluations of the EM Program and will examine how the EM Program works. Following the process evaluation, we will conduct an initial outcome evaluation to compare the actual rates of recidivism to the projected rates and a cost-benefit analysis to compare the actual costs and benefits compared to projected costs and benefits. *This process evaluation documents the current practices and procedures of the EM Program. Additionally, we determined if the EM Program was implemented as planned, how it was received by the staff and stakeholders, if there were barriers to program implementation and if so, identify the barriers, and document program improvements. The evaluation captures the strengths and weaknesses of the program and identifies areas where policy or procedure may be enhanced to better serve the goals of the project.

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[1] ElectronicMonitoringPilotProjectProposal~4-16-2014.pdf

[2] http://www.leg.state.vt.us/jfo/reports/VT Results First Criminal Justice Preliminary Results Final Draft ~ March 2016.pdf

- The pilot program expired shortly after this report was written. The subsequent evaluations were not completed due to a lack of a sufficient number of participants.

Methodology

The methodology used for the process evaluation was Grounded Theory which starts with using and analyzing the data rather than with a hypothesis. The interviews are mined and then coded for themes allowing commonalities to appear and a holistic picture of the process to emerge. To collect this data semi-structured in-person interviews were conducted with team members and others associated with the EM Program.

The team members and stakeholders interviewed included: two defense attorneys, two prosecutors, two judges, the Sheriff, the program coordinator, two transportation deputies, dispatch deputies, the victim/witness advocate and two pre-trial monitors.

In addition, the database used by the Coordinator to collect program and participant data was reviewed as well as the spreadsheets/outputs of the computer monitoring program, the written policies and procedures, and the pamphlets and other media used to operate and promote the program.

Process

The Electronic Monitoring Program began operating on September 12, 2014 when the first defendant was put on the tracking bracelet. The EM Program serves Windham County defendants who could not afford e bail or could be held with no bail. The coordinator reviews the charges and defendant's criminal history and conducts a pre-screen to determine the defendant's eligibility for the program.[3] The coordinator does not use an evidence-based risk assessment tool or clinical screening tools.

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[3] Per the manual the following defendants will not be accepted into the program:

a. The applicant was convicted of an offense which has a firearm specification within the past five (3) years,
b. The applicant has violated rules while incarcerated or detained in a correctional facility or program,
c. The applicant has been convicted of a sex offense on a minor under the age of 16,
d. The applicant has escaped or attempted escape from a correctional facility or program within the last 12 months,
e. The applicant has been removed/terminated from an Electronic Monitoring Program for the violation of any rule, regulation, or condition of the program within the last 12 months,
f. The applicant has an active warrant(s) from outside the State of Vermont.

Defendants learn of the program from pamphlets in the holding area of the court, the deputies providing the transportation, defense counsel and/or the State's Attorney. Defendants who meet the eligibility requirements may be precluded from applying based on their behavior in court or during transportation. For example, during transport a deputy overheard a defendant stating that he was going to cut off the bracelet and leave the state. This defendant was not allowed to apply for the program.

Once the coordinator determines eligibility and that the defendant is willing to participate, she conducts an interview with the defendant. The interview helps determine supports that are needed including: housing, financial support, employment and other needs. The coordinator and a deputy sheriff visit the home to make sure it is safe, has the necessary cell phone connectivity, and to confirm that other residents agree to the defendant living there. At this time, the coordinator tries to secure the consent of the State's Attorney and defense counsel. If the crime involves a victim, the State's Attorney's office communicates with the victim.

Upon agreement of the parties, the defendant is entered into the EM Program and the GPS bracelet is attached. The coordinator uses a computer program to map the allowable areas of travel including approved times of travel. A defendant may be allowed to travel to counseling, work, and visits with their children. The defendant is required to meet with the coordinator either by phone or in person at least once a week at the coordinator's discretion. The defendant is also expected to comply with all conditions of release and the requirements of the program. The Program Manual requires that the defendant maintain a phone communications and housing; other conditions are set by the coordinator. If any conditions are violated, the defendant is returned to jail. The defendant is then ineligible for future electronic monitoring unless the Sheriff makes an exception.

Technology

The Sheriff uses 3M and Omnilink to provide electronic monitoring services. Neither company provides coverage of the entire county due to cell phone tower rights. Both companies provide similar computer programs that the coordinator uses to set zones of inclusion and exclusion.

The bracelet monitors the defendant's movements via the Global Positioning System (GPS)

and cell tower data. The bracelet also communicates with the companies via a land line telephone. The land line is used to communicate with the company when the defendant is in an area with no cell phone service.

The coordinator sets geographic zones and timeframes for the defendant's activities. Zones are set for commuting, work, counseling appointments, etc. If no other household members are available, the coordinator may set up to 2 hours for general shopping needs or to access laundry facilities. In some cases, exclusion zones are established to prohibit the defendant from entering areas such as the neighborhood of the victim or the victim's workplace.

If a defendant does travel into a prohibited zone, an alarm is sent to the dispatcher at the Sheriff's office, who then sends a deputy to respond. There are times when defendants, upon request, can travel through or near an exclusion zone for good reason. One defendant needed to travel along the edge of an exclusion zone because of road construction. He was granted a change that temporarily allowed travel through the exclusion zone.

Alarms are also sent when the device is tampered with. This includes removal of the device, a dead battery, or lost contact with the device. If the device is tampered with a deputy is dispatched to respond immediately. If the alarm is the result of a dead battery or lost GPS contact, the protocol requires that the deputy call the defendant first. If no contact is made to dispatch, a deputy travels to the last known and other possible locations to track the defendant down.

Tampering with the bracelet is a concern. Both companies were asked to comment on tampering with the devices. The Omnilink device has two location technologies, the GPS location technology is used whenever it is available, and the cell tower technology is the backup. The Omnilink GPS can be blocked by multiple layers of foil positioned around the device. They report that this is not easy to do as the device is on the ankle and it must be completely sealed with the foil. The second technology is the cellular triangulation. Cell is much stronger than the GPS signal and it is unlikely the cell would be completely blocked using foil. The 3M Company also describes the use of foil to block the antennae from receiving a signal. They are currently working on their next device which will include a detector to pick up the block. 3M reported that they have tower-based tracking now that will help determine if offenders are attempting to block the signal. Other signal blocking devices are called jammers which are reported to be inexpensive and will block all signals. 3M reported that the simplest way to beat the bracelet is to not charge it and claim

forgetfulness.

For alcohol detection, the deputies have been randomly breathalyzing defendants. The EM Program will soon be using at-home alcohol sensors. The alcohol sensor connects to the phone line, the defendant blows into the device and a picture is taken. This information is sent to the program and compared to the information on file. Random checks can also be performed if there are concerns.

Demographics

As of May 25, 2016 the program has screened 53 people for eligibility. Forty-eight of the defendants screened were being held on felonies with no bail or who were unable to pay the bail that had been set. The remaining five defendants had committed misdemeanors and were unable to pay their bail. Only one of the defendants was on DOC community supervision at the time and had been referred for the fifth violation of probation.

Table 1: Most Serious Charge by Felony vs. Misdemeanor

Most Serious Charge	Number of Defendants
Felony	48
Misdemeanor	5

Thirty-four defendants were screened but did not enter the program. Housing was the most significant factor impacting the numbers of individuals allowed entry into the EM Program. Eleven defendants were rejected because of lack of suitable housing. In four cases either bail was posted, or the case was resolved before the application process was completed. The State's Attorney issued denials in four cases. Three were denied because of the failure of follow through by either the defendant or their counsel. Two defendants were ineligible due to the policies of the program (one had a habitual offender charge added, another had no ties to the community). Other reasons for denying program entry included: one was a fugitive, one's criminal history was a factor, and one decided to stay in jail. The remaining seven were rejected for various other reasons. Table 2 sets out the reasons for defendants not entering the program.

Table 2: Reasons for Not Entering the Program after Screening

Reason for Denial	Number of Defendants
Lack of Suitable Housing	11
Posted Bail	3
Case Resolved	1
State's Attorney refusal	4
Failure to follow through by defendant or counsel.	3
Habitual Offender Charge	1
No Ties to Community	1
Fugitive	1
Decided to stay in jail	1
Criminal History	1
Other reasons	7
Total	**34**

Nineteen people have been placed on the program. Their most serious charges are reflected in Table 3 below.

Table 3: Most Serious Charges of Defendants Placed in EM Program

Most Serious Charge	Number of Defendants
Felony Assault	4
Felony DV	5
Felony Drug	4
Felony DUI	1
Felony Robbery	1
Felony Property	1
Misdemeanor Assault	1
Total	**17**

Four defendants had a felony assault and five had felony domestic violence as the most serious charge. Four defendants had a felony drug charge as the most serious charge. Other

defendants' most serious charges included: a felony DUI, a felony robbery charge, a felony property charge, and a misdemeanor assault.

All defendants accepted into the EM Program have spent a total of 2,051 days on the electronic monitoring bracelet. The shortest duration was 12 days (the defendant violated) and the longest duration was 440 days when the case was resolved.

Two of the nineteen are currently in the program. Of the remaining seventeen, ten successfully completed the program and seven received violations and were returned to jail. Three defendants received violations for alcohol related incidents[4], one defendant for a zone violation, and one defendant committed a new offense. One defendant was violated and was placed back on the program and violated again. It was determined that this defendant had mental health issues that made compliance with the program unlikely.

Table 4 illustrates the cases of the ten successful defendants whose cases have been resolved and the estimated cost benefit over regular detention. This analysis uses the marginal cost, or the cost of adding one more person to the system. This does not include the capital costs of the facilities. It also does not include the employee costs of the Sheriff's department in processing and monitoring the participants. For a full description of the marginal cost and cost benefit analysis please see the Criminal Justice Consensus Cost Benefit Working Group Final Report.

The cost of the electronic monitoring is $28.78 per day (includes $25 per day for monitoring, $2.90 for the device and approximately $0.88 in mileage per day) the cost of detention is $159 per day. Benefits are calculated as days on the EM Program multiplied by the cost of detention minus the days on EM multiplied by the cost of the monitoring.

[4] In one case, the defendant visited the local liquor store for a few days before the defendant was violated. Both companies have a problem with "drift". Drift is where the satellite miscalculates the defendant's location, and the defendant appears to jump from one location to another. The satellite usually self corrects within an hour or so. Drift causes an alarm fatigue of sorts with the dispatch deputies. In this case, the defendant drifted to the same location, the liquor store, at the same time every day. He was violated and returned to jail.

Table 4: Successful Defendants, Cases Resolved & Sentence, Estimated Cost Savings

Docket No.	Days on EM	Harshest Sentence	Days Credited to Final Sentence	Est. Benefits Over Detention
877-7-15 WMCR	147	Split 3-5 years, 147 days to serve	147	$19,142
1433-10-14 WMCR	66	20 months-5 years	66	$8,594
1154-9-14 WMCR	109	Split 4-5 years, 109 to serve	109	$14,193
1325-10-14 WMCR	243	Split: 9 -12 months, 243 to serve	243	$31,643
726-6-14 WMCR	326	Deferred	NA	$42,451
890-7-14 WMCR	13	6-18 months	13	$1,692
1599-12-14 WMCR	440	Deferred	NA	$57,296
1159-9-14 WMCR	35	55-56 days	35 defendant maxed out[5]	$4,557
461-4-14 WMCR	109	Probation	NA	$14,193
479-5-14BNCR (VOP #5)	60	Dismissed	NA	$7,813
Total Est. Benefits				**$201,574**

Analysis

The following themes emerged during the analysis of the interviews. First it is important to note that none of the stakeholders interviewed expressed any concern about the protection of public safety. All stakeholders were comfortable with the electronic monitoring technology being used and the Sheriff Department's response. Stakeholders did express concern for the coordinator's safety when conducting home visits. She conducts home visits with a deputy and did not express concern for her own safety.

There are conflicting ideas among the stakeholders regarding program operations which has led to frustration and less than 100% buy in. Communication among the stakeholders is not streamlined or institutionalized yet resulting in some defendants either being delayed entry or not having access to the program. The EM Program is not using an evidence-based risk and needs assessment tool which would

[5] In this case, the defendant turned himself into DOC to serve his sentence, but the DOC calculations had him maxing out of his sentence based on his days served on electronic monitoring. He was released and brought home.

provide an objective means for gauging program eligibility as well as addressing the needs of the defendant in a more comprehensive manner. Finally, there is frustration at the low numbers of defendants entering the EM Program.

Stakeholders were complimentary in their description of the transportation deputies' and coordinator's professionalism and dedication. The transportation deputies played a more vital role than originally anticipated. Many of the defendants who applied did so because the deputies would talk positively about the program during trips from detention to the courthouse. Many of those interviewed wanted to tell stories about the transportation deputies and how they consistently went above and beyond their job descriptions and treated defendants with compassion and professionalism.

Conflicts about Program Operations

The stakeholders routinely referred to the program as "outside jail" meaning that this is considered a law enforcement program with all the limitations of being incarcerated except that the defendant can live at home and work. During the interviews it was clear that they think that the rules and limitations of incarceration should apply. In some cases, the term "outside jail" is used to describe the program to victims to increase their confidence in the technology and the program. However, this characterization by stakeholders creates some dissonance when the coordinator does something that does not conform to their idea of "outside jail". The Sheriff and coordinator consider this a social service program that has benefits and incentives if the defendant is compliant with the EM Program rules.

One example of the conflict is when the coordinator approved a motel as a residence for a defendant. One stakeholder was insistent that this decision was inconsistent with being detained, as the motel was a known transient residence for drug activity. However, since the defendant had no other suitable housing and he could afford the motel, the coordinator felt that the motel was a temporary solution to the housing problem that plagues the program.

Another stakeholder expressed concern that the coordinator had discretion to allow defendants a pass for special events. One defendant, who the coordinator felt was doing very well on the program, was allowed to go to the Fourth of July parade. The stakeholder felt this was inconsistent with the idea of "jail" as an incarcerated person wouldn't be able to attend this event.

The Program Manual doesn't define the role and responsibilities of the coordinator in detail. In addition to the rules that guide the defendant's behavior, the Manual does state that the defendant may be allowed to "Attend(ing) other activities or programs approved by the court or EMP staff." For the defendants who are in compliance, especially for those being monitored for a long period of time, the coordinator feels that small rewards for good or exceptional behavior encourages defendants to continue their compliant behavior. Defendants expressed frustration that their cases were taking longer than they thought they should. One successful defendant was in the program for 324 days, another for 440 days. This is likely longer than they would have been held on pre-trial detention. According to the coordinator, being able to give a pass to a special event helps keep up the morale of the defendants while they await disposition of their charges. [6] The State's Attorney expressed confusion about the circumstances under which a defendant would be allowed special privileges and would like the right to say no or at least discuss the application of these privileges.

The program coordinator and the Sheriff view the program as a law enforcement program with a social services component. The law enforcement aspect does limit the movement of the defendant, and except for work, counseling, and childcare the defendant is essentially on home detention. The social services component, including weekly check-ins, special passes, encouragement and support from the program coordinator are the activities that characterize this program as evidence based. These value-added activities are important if the electronic monitoring program is to succeed. The conflict can be resolved by reviewing and revising the Manual to clarify the policies and procedures.

Now that the EM Program has been operating for 21 months, reviewing, improving, and clarifying the Policies and Procedures Manual with all stakeholders would be beneficial, would standardize operations and lessen conflicts. This would give stakeholders a common understanding of the role and responsibilities of the coordinator and the rules that guide the program and defendants' behaviors.

[6] Both of these defendants received deferred sentences, with credit for time served on the program

Communication

Better communication regarding referrals between the State's Attorney and defense counsel might help increase the population in the EM Program. Currently, the program policies allow the State's Attorney discretion to deny participation to a defendant. The State's Attorney has done so in four cases: two because of the seriousness of the charge, one because of the pending charge and one for not returning the coordinator's call. Defense counsel is not notified of the denials to the program in time to respond, question the decision, file a motion, or request a hearing regarding program entry. It would be helpful if there was a process where defense counsel is notified of the State's Attorney decision to deny entry as soon as possible. Streamlining the communication process around questionable referrals and setting a time for discussion and other responses may increase participation in the program.

Risk/Needs Assessment

Currently, the coordinator is not using an evidence-based risk and needs assessment tool nor are clinical screenings conducted. There is a risk assessment tool in the Electronic Monitoring Handbook, but it is not evidence-based. The interview that the coordinator conducts includes questions about needs but no needs assessment tool is being used. [7] The Coordinator had asked to be trained to administer the ORAS Risk and Needs Assessment tool, but the Department of Corrections refused this request.

Evidence-based risk and needs assessments tools should be used to help determine program eligibility as well as determine the services needed while the defendant is waiting for the case to be disposed. The pretrial monitors are using the ORAS pre-trial risk assessment, the SIMPLE Mental Health screening tool and the SASA substance abuse screening tool. According to the Pretrial Services Director, the enabling legislation of the Pretrial Services Program does not allow the monitors to share information with the EM Program (with the defendant's consent, a summary of the risk/needs assessment can be shared with the State's Attorney). As the EM Program expands statewide, policy makers should explore allowing the pretrial monitors to share information with the EM Program. This may increase participation in the program, help determine

[7] The Coordinator can suggest counseling. In one case a defendant's mother refused to consent to allow her son to live with her on the program unless he went to counseling. In that case, counseling became part of the defendant's requirements for the program.

the needs of the defendants and allow for improved referrals to address any needs the defendant may have. Using these tools might also alert the coordinator as to who may not be an appropriate candidate for the program. [8]

Low Numbers in Windham County

Stakeholders expressed frustration at the lower than expected participation rates in Windham County. Housing remains the largest obstacle to participation and there is little the program can do to remedy this. Other reasons for low participation include defendants who commit crimes in Windham but do not reside in Windham County, lack of interest from some defendants (it is easier to do the time), and systemic use of evidence-based risk/needs assessments. The Sheriff noticed early on that the number of Windham defendants that could be referred to the program was going to be low and began immediately working with the neighboring counties of Bennington and Rutland to bring them on board with the program. To date the legislature is contemplating a bill that would allow the pilot to expand statewide.

[8] In one case a defendant with mental health issues was placed on the program, was violated and then the SA allowed the defendant a second chance on the program. The defendant violated again. Had the appropriate screenings been done, it is possible that this defendant would not have been placed on the program.

Preliminary Conclusions/Recommendations

1. The Windham County Electronic Monitoring Program is demonstrating initial cost avoidance. The cost analysis is very preliminary; however, the initial proposal estimated a savings of $2,210 per defendant from avoiding the cost of detention. For the ten defendants who have been successful in the EM Program the initial cost review is well beyond the amount that was anticipated.

2. The EM Program appears to be operating as written in the Policy and Procedures Manual, however, some issues have arisen that need to be addressed. See Recommendation below.

3. It does not appear that the defendants in Windham County will be of a sufficient number to fill the EM Program, the coordinator and Sheriff have started to expand to other counties and have made a request to the Legislature to expand Statewide. We agree with this strategy.

4. The EM Program accepted its first participant in October 2014, now that the Program has been operating for 21 months, has completed intakes on 53 defendants, and served 19, the stakeholders involved should review and update the Policy and Procedures Manual and the Participant Handbook based on what they've learned in the first 21 months.

5. Conduct a review of the role of the stakeholders and the coordinator including strategies for sharing information, in particular the State's Attorney's denials or rejections for program entry.

6. Use a validated, evidence-based risk and needs assessment tool, preferably the ORAS pretrial tool so the information gathered aligns with the other programs using this tool.

7. Explore the interface of the programs serving defendants at the pre-charge / pretrial phase of the criminal justice system. Many of these programs have adopted the same or similar outcomes for participants and there may be an opportunity to collaborate on systemic strategies.

8. Develop an advisory committee to oversee the statewide expansion of the EM Program. Work with the Windham County Sheriff on a statewide Policy and Procedures Manual based on best/evidence-based practices, ensure the data is being collected, and that staffing is addressed if needed.