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EXAMINE TECHNOLOGICAL ADVANCES AND OTHER ISSUES IN ELECTRONIC MONITORING OF PROBATIONERS

Issue Description

Electronic monitoring by location tracking devices can be used as an aid in supervising pre-trial releasees and sentenced offenders who are not incarcerated. In Florida, electronic monitoring is primarily used by the Department of Corrections (department) to provide an extra measure of security for high-risk offenders – particularly sex offenders – who are under some form of community supervision. In recent years there have been calls to reduce corrections costs by replacing all or part of a term of incarceration of low-risk offenders with less-expensive community supervision that includes electronic monitoring. In addition to reducing costs, some believe that use of electronic monitoring in lieu of the last part of a period of incarceration would support successful reentry into the community by providing for a period of supervision before release from custody.

This report describes the current and historical use of electronic monitoring in the state correctional system and examines the potential for cost savings through increasing its use. The description of technology and support systems also illustrates the capabilities and limitations of using electronic monitoring to enhance public safety.

Background

Florida law permits a sentencing court to order electronic monitoring for any convicted offender who is placed on probation or community control, and the Florida Parole Commission may use it as a condition of post-release supervision.¹ In some cases, the court is required to order electronic monitoring because of the offender's current or past offenses. The most stringent requirement is found in s. 948.012, F.S., which requires a minimum 25 year prison sentence followed by lifetime supervision with electronic monitoring for any adult offender who commits lewd or lascivious molestation against a child under 12 years of age.²

Description of Electronic Monitoring Technology and Its Historical Development

Electronic monitoring is a technological tool used by correctional agencies to aid in supervising offenders who are on some form of community supervision.³ The idea for using electronic tracking devices as part of corrections supervision was developed in the 1960s, but it was first applied to a few New Mexico offenders in 1983 after a state court judge was inspired by the plot of a Spiderman comic book.⁴ In 1984, Palm Beach County became one of the earliest government adopters of electronic monitoring technology when it used a Radio Frequency monitoring system to enforce house arrest for a small group of misdemeanor and DUI offenders.⁵

¹ In many counties the court can order electronic monitoring as a condition of pre-trial release for an accused person who is awaiting trial.

² The offense is codified at s. 800.04(5)(b), F.S.

³ This report focuses on location tracking, but in the broad sense electronic monitoring can include such technologies as reporting kiosks, ignition interlock systems, remote substance use detection devices, and identity verification systems.

⁴ Jody Klein-Saffran, "Electronic Monitoring vs. Halfway Houses: A Study of Federal Offenders," *Alternatives to Incarceration* (Fall 1995). See also Robert S. Gable and Kirkland R. Gable, "The Practical Limitations and Positive Potential of Electronic Monitoring," *Corrections Compendium* (September/October 2007), p. 6.

⁵ "Electronic Ankle Bracelets May Let Inmates Serve Time At Home," *Orlando Sentinel* (July 20, 1985), last viewed on August 15, 2011 at http://articles.orlandosentinel.com/1985-07-20/news/0310370215_1_ankle-bracelets-electronic-monitoring-beach-county.

Radio Frequency Monitoring

Early electronic monitoring systems were used primarily to monitor offenders who were under house arrest. These systems typically used Radio Frequency (RF) technology to either alert the probation officer when the offender left a restricted area or to make a record of the occurrence for later review by the officer. Equipment design has been updated and reliability has improved, but RF monitoring systems today have the same basic components as when first introduced. The offender on RF monitoring wears a small transmitter that communicates by radio signal with a receiving unit in the residence. The transmitter's broadcast range can be limited to restrict the offender to the area in and around his or her residence. The receiving unit is linked to a telephone line, and an alarm is sent to a monitoring station if the receiving unit does not receive the radio signal from the transmitter. In turn, the monitoring station notifies the probation officer that the signal has been lost and the offender may have left the restricted area. Because there are a number of conditions that can cause a signal to be temporarily lost, the monitoring station often calls the offender's home to determine whether there has been an equipment malfunction before notifying the probation officer of a possible violation.

RF monitoring systems can be programmed to account for periods when the offender is permitted to be away from the restricted area, such as to go to work or to attend religious services. However, RF monitoring does not provide any information about the offender's location when the offender moves outside the range at which a receiver can detect the radio transmission. RF monitoring costs \$1.97 per day per monitored offender and is the least expensive form of electronic monitoring, but its inherent limitations and laws requiring use of monitoring with location tracking technology for sex offenders have led to reduced use by the department. The department's use of RF monitoring has fallen from 258 offenders on June 30, 2000 (43% of all offenders on electronic monitoring) to 67 offenders on June 30, 2011 (2.4% of all offenders on electronic monitoring).

Global Positioning System Monitoring

Unlike RF monitoring systems, Global Positioning System (GPS) technology allows tracking of an offender's location even when he or she moves away from a fixed location. GPS was developed for military use, but President Reagan made it available for civilian applications after a commercial airliner was shot down when it strayed over foreign territory in 1983. Even then, a "selective availability" policy required introduction of an error into the GPS signal to make civilian receivers less accurate than military receivers. This policy was lifted in May 2000 and off-the-shelf commercial GPS receivers, such as the navigation devices commonly used in automobiles and by outdoorsmen, can now regularly attain accuracies within 9 feet.⁶

GPS systems use radio signals transmitted from satellites positioned in geosynchronous orbit above the earth to calculate the location of a receiving device. A signal must be received from at least 3 satellites to determine the GPS receiver's position, and acquisition of additional signals reduces the location error rate. A variety of factors can affect reception of the satellite signals, with atmospheric conditions and buildings being the most common. Many GPS devices now incorporate "assisted GPS," which uses the cellular network and known Wi-Fi locations to speed up satellite acquisition and improve location fixing when the satellite signal is degraded.

Active GPS monitoring provides real-time reporting of an offender's location by incorporating a cell phone into the equipment in order to transmit location coordinates to a monitoring station. The monitoring station alerts the probation officer when the offender either leaves an area to which he or she is restricted or enters an area from which he or she is barred. Florida's GPS monitoring system currently costs approximately \$8.94 per day per monitored offender. Award of a new electronic monitoring contract is currently under protest, but the highest bid of the parties involved in the protest was \$5.50 per day.

A two-piece GPS monitoring system includes the GPS receiver that is secured around the ankle with a bracelet, and a Mobile Tracking Device (MTD) that receives, stores, and transmits the location data from the receiver. In

⁶ The accuracy of a GPS receiver depends upon the quality of the equipment and environmental factors such as atmospheric conditions and the presence of buildings or other obstructions. There are various programs in development that will greatly improve accuracy. For example, the High Accuracy-Nationwide Differential Global Positioning System (HA-NDGPS) program will augment GPS to obtain accuracies of approximately 4 inches. See <http://www.gps.gov/systems/augmentations>, last viewed on August 19, 2011.

addition, the MTD can display messages and instructions from the monitoring station or probation officer. A one-piece system incorporates both the receiver and the MTD onto the bracelet. Both types of equipment also have a base station for charging the MTD and communicating information by landline telephone.

A passive GPS monitoring system uses the same GPS technology as an active GPS system, but does not have a cellular capability to send location information to a monitoring station in real time. The department used both active and passive GPS systems from 2003 until it discontinued using passive GPS in 2006. Although passive GPS was relatively inexpensive at approximately \$4 per day, it generated many more alarms and significantly increased correctional officer workload.⁷

Statutes Regulating Electronic Monitoring

Overview of Statutory History

Florida instituted a statewide house arrest program in 1983 when “community control” was created for the express purpose of relieving prison overcrowding.⁸ Among the statutory changes was amendment of s. 948.03, F.S., to require “intensive supervision and surveillance” of offenders placed on community control, which could include “confinement to an agreed upon residence during hours away from employment and public service activities.”⁹ Section 948.03, F.S., was amended again in 1987 to explicitly provide that the intensive supervision of an offender placed on community control could include supervision “by means of an electronic monitoring device or system.”¹⁰ At the time, electronic monitoring was limited to use of an RF monitoring system to verify that the offender was complying with the terms of house arrest.

Section 948.12, F.S., was created in 1997 to require intensive supervision of violent offenders who were released from prison with probation to follow. The new statute allowed probation officer caseloads to be restricted to 40 offenders per officer in order to enhance public safety as well as to effectively supervise an offender using electronic monitoring if it was ordered by the court.

Also in 1997, “sex offender probation” and “sex offender community control” were created as separate supervision categories.¹¹ These were individualized forms of intensive community supervision that could include electronic monitoring. Specific conditions of supervision were required for offenders placed on sex offender probation for certain sex offenses committed on or after October 1, 1997.¹² Although electronic monitoring was one of these “required” conditions, it was not truly mandatory because it could only be ordered “when deemed necessary by the community control or probation officer and his or her supervisor, and ordered by the court at the recommendation of the Department of Corrections.”¹³

The most significant legislative development in Florida’s electronic monitoring program since its inception was passage of the Jessica Lunsford Act in 2005.¹⁴ The Lunsford Act resulted from heightened concerns about the dangers posed to children by sexual offenders. It was named in memory of Jessica Lunsford, a nine year old girl who was sexually assaulted and murdered by a convicted sex offender after being abducted from her home in February 2005. The year before, eleven-year old Carlie Brucia had been abducted, sexually assaulted, and

⁷ See OPPAGA Report No. 05-19, “Electronic Monitoring Should be Better Targeted to the Most Dangerous Offenders,” April 2005, pp. 4-5, and Padgett, K., Bales, W. and Blomberg T. “Under Surveillance: An Empirical Test of the Effectiveness and Consequences of Electronic Monitoring,” *Criminology & Public Policy*, Volume 5 Issue 1, February, 2006.

⁸ Chapter 83-131, L.O.F.

⁹ Section 16, ch. 83-131, L.O.F.

¹⁰ Section 5, ch. 87-211, L.O.F.

¹¹ Chapter 97-308, L.O.F.

¹² This requirement is now in s. 948.30(2)(e), F.S. A similar amendment to s. 947.1405, F.S., specifically allowed the Parole Commission to order electronic monitoring as a condition of conditional release supervision for offenders who had committed one of the enumerated crimes on or after October 1, 1997.

¹³ Before passage of the Jessica Lunsford Act in 2005, the only statute mandating the sentencing court to require electronic monitoring was found in s. 948.101(1)(b), F.S., and applied only to offenders placed on criminal quarantine community control for criminal transmission of HIV. No offenders were ever placed on this form of community supervision and it was removed from the statutes in 2010.

¹⁴ Chapter 2005-28, L.O.F.

murdered by an offender on probation. The concerns for children's safety were underscored by the murder of thirteen-year old Sarah Lunde by a convicted sex offender in April 2005 while the Act was under consideration by the Legislature. Among the many provisions of the Act were requirements for electronic monitoring of certain sexual offenders. To support the expansion in electronic monitoring that would be required, almost \$4 million in recurring funds were appropriated to increase the number of active GPS electronic monitoring devices available for use by 1200 units.

Current Statutes Related to Electronic Monitoring

Mandatory Requirements for Electronic Monitoring: As a general rule, electronic monitoring must be ordered as a condition of any sentence to probation or community control for a crime committed on or after September 1, 2005 if the crime was a sexual offense against a child or if the offender was previously convicted of a sexual offense against a child. Specifically, the sentencing court is statutorily required to order electronic monitoring as a condition of supervision in the following cases:

(1) For any offender placed on probation or community control for a violation of:

- Chapter 794, F.S. (sexual battery);
- Section 800.04(4), (5), or (6), F.S. (lewd or lascivious battery, lewd or lascivious molestation, or lewd or lascivious conduct committed upon or in the presence of persons less than 16 years of age);
- Section 827.071, F.S. (sexual performance by a child); or
- Section 847.0145, F.S. (selling or buying of minors)

if the victim was less than 16 years old and the offender was at least 18 years old at the time of the offense, and the offense was committed on or after September 1, 2005.¹⁵

(2) For an offender placed on probation or community control for an offense committed on or after September 1, 2005, that was not one of the sex offenses enumerated in (1), if the offender either:

- Is designated as a sexual predator pursuant to s. 775.21, F.S.; or
- Has previously been convicted of committing one of the enumerated offenses in which the victim was less than 16 years old and the offender was at least 18 years old at the time of the offense.¹⁶

(3) For an offender who is placed on conditional release supervision and who either:

- Is at least 18 years old and is being released from a prison term for committing one of the enumerated offenses on or after September 1, 2005, in which the victim was less than 16 years old; or
- Is designated as a sexual predator.¹⁷

(4) For an offender who is convicted of violating s. 800.04(5)(b), F.S. (lewd and lascivious molestation against a child under 12 years of age by a person who is 18 or older) on or after September 1, 2005, the court may impose either:

- A sentence of imprisonment for life; or
- A split sentence of at least 25 years in prison followed by probation or community control for life with electronic monitoring as a mandatory condition of supervision.¹⁸

(5) For an offender who is at least 18 years of age who is on probation or community control for any offense, and who is designated as a sexual offender or a sexual predator for unlawful sexual activity involving a victim under 16 years of age:

¹⁵ Section 948.30(3)(a), F.S.

¹⁶ Sections 948.30(3)(b) and (c), F.S.

¹⁷ Section 947.1405, F.S.

¹⁸ Sections 948.012 and 775.082(3)(a)4.a., F.S.

- If the court revokes the probation or community control after a finding of a violation, and orders a new sentence of probation or community control, electronic monitoring must be ordered as a condition of supervision.¹⁹
- If the court finds that the offender violated probation or community control, but does not revoke it, the court must modify the conditions of supervision to include electronic monitoring.²⁰

Discretionary Authority for Electronic Monitoring: Sentencing courts and the Parole Commission (in the case of post-prison release) have the discretion to order electronic monitoring as a special condition of supervision for any offense, but it is only mandated by statute in the situations described above.²¹

Apart from the statutory authority given to the courts, the department has discretion under s. 948.11(1), F.S., to place a community controllee on electronic monitoring. The department does not exercise this discretion because of case law that an offender's failure to submit to electronic monitoring ordered by the department cannot be a basis for revocation of community control.²²

Pretrial Release: Section 907.041(4)(b), F.S., gives the court discretion to release a defendant on electronic monitoring if the facts and circumstances on the record warrant such a release. In several counties and municipalities, the local law enforcement agency has responsibility for an electronic monitoring program for pre-trial releasees. In the juvenile law setting, electronic monitoring is one of the forms of pretrial detention which can be ordered if allowed by the risk assessment instrument.²³

Type of Device: The Jessica Lunsford Act requires the department to use "a system that actively monitors and identifies the offender's location and timely reports or records the offender's presence near or within a crime scene or in a prohibited area or the offender's departure from specified geographic limitations" for any court-ordered electronic monitoring of a probationer, community controllee, or conditional releasee who has a conviction for a violent or sexual offense.²⁴ Active GPS monitoring systems are the only currently available systems that meet this criteria.

Payment of Costs: Section 948.09, F.S., requires the monitored offender to pay the full cost of the electronic monitoring service. However, the department has authority to exempt the offender from all or part of the payment under certain circumstances, such as inability to find a job. The willful failure to pay monitoring costs that have not been exempted is grounds for the court to find a violation of the conditions of supervision.

Currently, GPS monitoring costs \$8.94 per day (approximately \$270 per month) and RF monitoring costs \$1.97 per day (approximately \$60 per month). Few offenders have the financial resources to pay this amount on top of restitution, court costs, supervision fees, and other fees that have priority for payment. The department reports that annual payments from offenders usually equal 10 to 15 percent of the cost of the electronic monitoring program. It is anticipated that the next contract for GPS monitoring will sharply reduce the cost for GPS monitoring, so the percentage of costs recovered from offenders should rise significantly.

Tampering: Section 948.11(7), F.S., makes it a third degree felony for an offender or other person to tamper with or destroy electronic monitoring equipment used pursuant to a court or Parole Commission order. Sixty-three offenders have been convicted of damaging electronic monitoring equipment and sentenced to supervision or prison since the law was enacted in 2005.

¹⁹ Section 948.063(1), F.S.

²⁰ Section 948.063(2), F.S.

²¹ Section 948.101(1)(d), F.S., specifically states that a court may order electronic monitoring as a condition of community control for any offender. Also, s. 948.03(2), F.S., permits a sentencing court to order special conditions of probation that are not specifically set forth in statute. The Parole Commission's discretionary authority is authorized by s. 947.18, F.S. (parole), s. 947.1405, F.S. (conditional release), and s. 947.149, F.S. (conditional medical release).

²² See *Carson v. State*, 531 So. 2d 1069 (Fla. 4th DCA 1988) and *Anthony v. State*, 854 So. 2d 744 (Fla. 2d DCA 2003).

²³ See s. 985.215, F.S.

²⁴ Section 948.11(6), F.S.

Caseloads: Section 947.1405(8), F.S., permits limitation of the caseload of officers who supervise conditional releases to 40 offenders in order to provide for effective monitoring of the conditions of electronic monitoring. Section 948.12, F.S., provides the same authority for officers who are supervising violent offenders under community supervision after release from prison. Otherwise, there is no specific statutory authority for reducing the caseload of probation officers who supervise offenders on electronic monitoring. However, there may be another basis for restricting an officer's caseload, such as the recognition that community control caseloads should be restricted to 25 offenders per officer.²⁵

In practice, most probation officers supervise a mixed caseload that includes offenders on different types of supervision, with some electronically monitored and others not monitored. In attempting to fairly distribute workload, the department recognizes that supervising an offender on electronic monitoring requires more work than supervising a non-monitored offender.

Appropriations for Electronic Monitoring

For several years after passage of the Jessica Lunsford Act, the annual appropriation to the department for electronic monitoring exceeded the department's expenditures for the program. However, expenditures for the electronic monitoring program have significantly exceeded the base appropriation beginning with Fiscal Year 2008-2009:

Fiscal Year	Base Appropriation	Additional Funding	Expenditures	Deficit
2008-2009	\$6,276,469	\$1,048,043	\$7,269,801	\$54,701
2009-2010	\$6,276,469	\$1,719,646	\$7,994,985	\$130
2010-2011	\$6,776,469	\$1,928,234	\$8,813,489	(\$108,786)
2011-2012	\$6,276,469	N/A	N/A	N/A

Lower rates for GPS monitoring that will be included in the new electronic monitoring contract will significantly lower expenditures for the program once the current bid protest is resolved.

Findings and/or Conclusions

Offenders on Electronic Monitoring

On June 30, 2011, the Department of Corrections was actively supervising 113,622 offenders on some form of supervision in the community.²⁶ Of those offenders, 2781 were being electronically monitored, with the great majority (2714) monitored by GPS and the remaining 67 by RF. Of the monitored offenders, 1783 – almost two-thirds of the total – were sex offenders or sexual predators. This was almost a quarter (23%) of the 7606 offenders on community supervision who were either a sex offender or a sexual predator.²⁷

Historically, the department developed its electronic monitoring program after it was first authorized by the Legislature in 1987. Active GPS monitoring was initiated in 1997, and within three years more offenders were placed on GPS monitoring than on RF monitoring. As the following table illustrates, since that time RF monitoring has declined steadily and GPS monitoring rose at a steady rate before expanding rapidly after passage of the Jessica Lunsford Act in 2005.

²⁵ Section 948.10(2), F.S.

²⁶ Another 36,556 offenders were in active-suspense supervision status, meaning that the offender was unavailable for direct supervision for reasons such as incarceration or hospitalization, but was still monitored by a probation officer. Additionally, the department was monitoring 6,605 offenders whose supervision had been transferred out of state, and 23,511 offenders had absconded from supervision.

²⁷ Florida's Community Supervision Population Monthly Status Report, June 2011, Florida Department of Corrections, last viewed at <http://www.dc.state.fl.us/pub/spop/2011/06/0611.pdf> on August 16, 2011.

Table 2
Number of Supervised Offenders on Electronic Monitoring on June 30

	Radio Frequency			Global Positioning System*			Total on EM	Sex Offenders & Sexual Predators
	Sex Offender	Other	Total	Sex Offender	Other	Total		
2000	41	217	258	177	170	347	605	36.0%
2001	75	284	389	249	303	543	932	34.8%
2002	46	233	279	224	335	559	838	32.2%
2003	55	183	238	224	299	523	761	36.7%
2004	36	206	241	256	262	518	759	38.5%
2005	29	164	193	246	288	534	727	37.8%
2006	38	160	198	430	351	781	979	47.8%
2007	27	132	159	721	535	1256	1415	52.9%
2008	10	101	111	1098	855	1953	2064	53.7%
2009	21	78	99	1401	892	2293	2392	59.4%
2010	10	74	84	1551	932	2483	2567	60.8%
2011	5	62	67	1778	936	2714	2781	64.1%

*GPS data for 2003-2006 includes passive GPS monitoring.

The Impact of Electronic Monitoring on Supervision Failures

In 2010, researchers from the Florida State University College of Criminology and Criminal Justice submitted a report to the United States Department of Justice that addressed whether electronic monitoring is “an effective and cost efficient correctional strategy that increases the level of monitoring and supervision of high-risk offenders while maintaining public safety.”²⁸ Studies released prior to the FSU report reflected mixed results regarding the effectiveness of electronic monitoring on reducing supervision failure. In addition, the studies either included a small number of offenders, were limited to a particular form of supervision, or were deficient in both aspects.

The 2010 FSU report was prompted by the perceived deficiencies in previous studies. It examined data relating to approximately 272,000 medium-risk and high-risk offenders who were on community supervision in Florida at some time during the period between June 1, 2001 and June 30, 2007. Of these offenders, 5,034 were on electronic monitoring and 266,991 were not. The following findings were the most significant results of the quantitative analysis of the data:

- Overall, electronic monitoring reduces the likelihood that an offender will not successfully complete community supervision by approximately 31% relative to the supervision failure rate of offenders who are not subject to it.
- Electronic monitoring significantly reduces the failure rate for all types of offenders, but has less of an impact on violent offenders (26% reduction) than on offenders who committed sex, drug, property, or other types of crimes (36% reduction).
- Offenders who were monitored by use of active GPS monitoring had a 6% improvement rate in the reduction of supervision failures relative to offenders who were on RF monitoring.
- Electronic monitoring was effective for different types of supervision with no significant difference in the results. However, the researchers found indications that use of electronic monitoring may have a greater impact on reduction of supervision failures for offenders on standard felony probation than for those on other types of supervision.
- There were no major differences in the effects of electronic supervision for offenders of different ages. This is somewhat unusual because age is often a significant variable in the effectiveness of different types of supervision.

²⁸ Bales, Bill, et al., A Quantitative and Qualitative Assessment of Electronic Monitoring, Report Submitted to the Office of Justice Programs, National Institute of Justice, U.S. Department of Justice, The Florida State University College of Criminology and Criminal Justice, Center for Criminology and Public Policy Research, January 2010, last viewed on April 10, 2011 at <https://www.ncjrs.gov/pdffiles1/nij/grants/230530.pdf>.

One of the earlier studies was a Florida-specific study that was also conducted by researchers at Florida State University. The study examined supervision outcomes of 75,661 offenders placed on community supervision (house arrest) from 1998 to 2002, including 5,523 offenders who were placed on either RF or GPS monitoring. The researchers found significant reductions in absconding and in revocations for technical violations or new offenses among electronically monitored offenders as compared to those who were not electronically-monitored. The study also found that electronic monitoring was effective across a range of violent, property, and drug offenders. The following table sets forth the findings regarding reduction in the likelihood of a supervision failure over a two-year period:²⁹

Type of Electronic Monitoring Used in Supervision	Reduction in Likelihood of Revocation for a Technical Violation	Reduction in Likelihood of Revocation for a New Offense	Reduction in Likelihood of Absconding
RF monitoring	95.7%	94.7%	91.2%
GPS monitoring	90.2%	94.7%	90.2%

Projections of the possible fiscal savings that can be achieved in Florida by diverting offenders from prison to community supervision with electronic monitoring have typically used the results of the 2006 study.³⁰ However, while both studies found significant positive effects from the use of electronic monitoring, the 2010 study found the reduction in likelihood of supervision failure to be much less substantial than did the 2006 study. Because the principal researchers were the same for both studies, substantial weight should be given to their observation that there can be increased confidence in the relationship between electronic monitoring and the outcomes found in the 2010 study over those found in prior studies. This is attributable to improvements in the methodology used for the statistical analysis as well as having recent data that more accurately reflects the department's current electronic monitoring practices.

Alarm Notifications

GPS monitoring systems access the GPS network, cellular networks, and landline telephones through the use of sophisticated electronic equipment. The basic purpose of GPS monitoring is to track monitored offenders 24 hours a day and to generate an alarm when an offender enters or leaves an area without authorization. However, the equipment's performance can be affected by external conditions, equipment malfunction, human error, or intentional misconduct. In those cases, the monitoring station or probation officer is alerted about the condition and must act to "clear" the alarm or to confirm that there is a violation.

Department statistics indicate that violations of location restrictions account for only 23% of all alarms. These include incidents in which an offender leaves an area to which restricted, enters an area from which prohibited, or violates curfew. The remaining alarm types are related to issues such as loss of communications, loss of satellite signal, equipment malfunction, or maintenance requirements. The great majority of these alarms are not caused by purposeful action by the offender. However, the alarms can also be caused by willful misconduct³¹ and they are considered to be violations until cleared. Each alarm is reportedly responded to and dealt with according to department protocol.

Willful violation of the conditions of electronic monitoring may lead to revocation of the offender's community supervision by the court, and revocations for electronic monitoring violations often result in a sentence of

²⁹ Padgett, K., Bales, W. and Blomberg T. "Under Surveillance: An Empirical Test of the Effectiveness and Consequences of Electronic Monitoring," *Criminology & Public Policy*, Volume 5 Issue 1, February 2006.

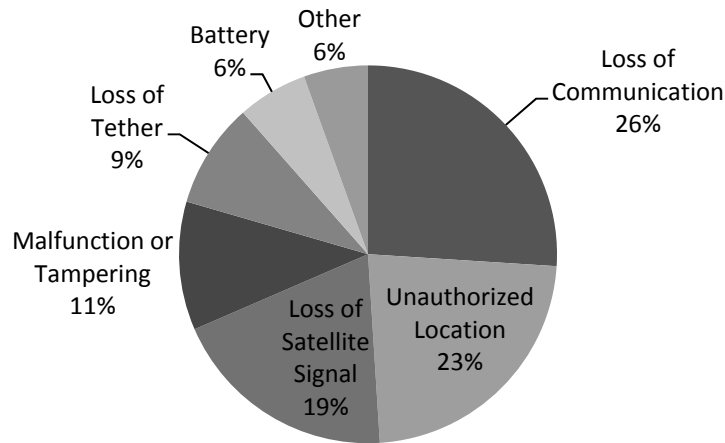
³⁰ See OPPAGA Report No. 10-27, "Intermediate Sanctions for Non-Violent Offenders Could Produce Savings," March 2010, pp. 3-4, which projected a potential savings of \$1.2 million in the first year for every 100 offenders on supervision with electronic monitoring instead of in prison.

³¹ The exception is the low charge alarm for the bracelet battery.

incarceration. During Fiscal Year 2010-2011, 530 offenders were found to have violated electronic monitoring rules, and 120 of these offenders were sentenced to state prison as a result of the violations.

The following chart indicates the relative frequency of various categories of alarms:

**Chart 1: Types of Alarm Notifications
July 2011**



The qualitative findings of the 2010 FSU study noted that frequent loss of the satellite signal often adversely affects offenders who are abiding by monitoring conditions. In particular, employers may be reluctant to employ a monitored offender who frequently has to leave the workplace in order to reacquire a GPS signal.³² Although there is currently no readily-available way to boost the satellite signal, continued development of location tracking technology will alleviate this problem in the future.

Statewide Monitoring Center

The introduction of the statewide monitoring center in October 2007 greatly enhanced the efficiency of the department’s electronic monitoring program. The monitoring center is staffed by contractor personnel who perform the initial screening of alarms in accordance with department protocol. The following chart demonstrates the workload of the monitoring center in the electronic monitoring process:

Table 4 Alarm Notifications for July 2011		
Routing/Disposition of Notification	Number	Percentage
Monitoring center handled/cleared	16,169	79.7%
Monitoring center forwarded to on call officer	3,295	16.2%
On call officer received directly	831	4.1%
Total	20,295	100.0%

The monitoring center clears alarms that it can quickly determine to have been caused by loss of signal, loss of communications, or equipment failure and which are immediately correctable. Reducing the need for officer response by 80% has the obvious benefit of freeing up the officer to perform more significant duties. A less obvious benefit is that the monitoring center provides a timely response that might not be possible for an on-call officer who may be dealing with other issues when an alarm is received. Even if the alarm is generated through no intentional fault of the offender, the demonstration that someone is actively monitoring the device is a powerful deterrent against intentional violations.

³² 2010 FSU study, page 93.

Impact of Human Factors on the Monitoring Process

Even if the electronic monitoring equipment works perfectly, human error can result in a failure of the supervision process. This was sadly demonstrated by a 2010 incident in Tampa in which a probation officer did not act on text messages from the monitoring center alerting her that it could not clear an alarm notification. The monitoring center had received an alarm notification when an offender, who was a sexual predator, removed his ankle bracelet. The monitoring center sent a text message to the probation officer, with a follow-up message an hour later, but the probation officer did not acknowledge either message. In the meantime, the offender met a woman at a bar and enticed her to his house where he sexually assaulted her. He was interrupted by police officers who were responding to an open-line 911 call that had been surreptitiously placed by the victim when she realized that she was in danger. The probation officer arrived at the offender's house in response to the alarm notification while the police were continuing their investigation – five hours after the first text message was sent by the alarm center.

This failure of the electronic monitoring system was widely publicized. Based on the probation officer's report, it was initially blamed on delayed delivery of the text messages due to a problem with the cellular data network. However, after a lengthy investigation it was determined that there had been no technological malfunction and that the officer had either failed to notice or had willfully ignored the messages from the monitoring center.³³ Notification procedures have been adjusted to require positive response from the primary on-call officer, with follow-up notifications to alternate responders until receipt of the alarm is verified.³⁴ However, the potential remains for human error or misconduct to nullify the benefits of the electronic monitoring system. Of course, this is also the case with other aspects of supervision of offenders in the community that depend upon the good judgment and performance of correctional probation officers.

Options and/or Recommendations

- (1) Electronic monitoring is a deterrent to crime, and GPS location tracking can assist in identifying or eliminating a monitored offender as a suspect when a crime is committed. However, electronic monitoring is not a failsafe against the commission of crimes and its availability should not be a deciding factor in whether a violent offender will be placed on community supervision rather than being incarcerated.
- (2) If the Legislature considers diverting non-violent offenders from prison into community supervision for fiscal purposes, it should consider the most recent empirical evidence regarding successful completion of supervision rates. The greater reduction in revocations that is achieved by supervision with electronic monitoring over traditional supervision may not be sufficient to offset the additional costs of electronic monitoring.
- (3) Even if there is no fiscal benefit to using supervision with electronic monitoring rather than supervision without electronic monitoring, there may be sound policy reasons for doing so. In that case, the Legislature should consider directing the department to use lower-cost RF monitoring in supervising diverted low-risk, non-violent offenders for whom location monitoring is not needed for public safety purposes.

³³ The description of this incident was primarily derived from "Delayed text messages left sexual predator free to roam for hours in Tampa case," St. Petersburg Times (January 5, 2010) and "State: Probation officer slept through text alerts warning of rapist," St. Petersburg Times (July 6, 2010), both last viewed on August 23, 2011 at www.tampabay.com.

³⁴ This case is at the extreme of offender behavior. More typically, the offender is aware that he or she will be violated for failing a drug test and cuts off the bracelet or discards the MTD with the intention of hiding with family or friends. The alarm allows quick notification to law enforcement and enhances the chances of capture. Unfortunately, there is no data on how often offenders remove or discard the equipment.