

Institution: University of Stirling		
Unit of Assessment: 20. Social Work and Social Policy		
Title of case study: Advancing electronic monitoring: changing tagging laws and practices		
Period when the underpinning research was undertaken: 2007 - 2017		
Details of staff conducting the underpinning research from the submitting unit:		
Name(s):	Role(s) (e.g. job title):	Period(s) employed by submitting HEI:
Dr Hannah Graham Prof Gill Mclvor Prof Margaret Malloch	Senior Lecturer in Criminology Emeritus Professor of Criminology Professor of Criminology	01/2015 – Present 1986 – Present 2001 – Present
Period when the claimed impact occurred: 2014 - Dec 2020		
Is this case study continued from a case study submitted in 2014? No		
1. Summary of the impact		
<p>This programme of research has advanced the use of electronic monitoring (EM) in Scotland and Europe, and underpinned the Management of Offenders (Scotland) Act 2019. Although the Scottish Parliament and Government had committed to reducing imprisonment and using technology to do that, prior to this new Act, Scottish EM policy and practice had not substantively changed. University of Stirling research evidence informed key elements of this new legislation and complementary practice guidance. Four key research findings and recommendations were implemented, resulting in: (1) the introduction of new EM technologies (e.g., GPS tags); (2) EM added as an option in Community Payback Orders (alternative to prison) alongside options such as justice social work supervision and unpaid work; (3) EM added as an option to bail (alternative to custody); and (4) updated practice guidance.</p>		
2. Underpinning research		
<p>1. 'Creativity and Effectiveness in the Use of Electronic Monitoring as an Alternative to Imprisonment in EU Member States' (EMEU) (GBP 75,675) (2014-2016) (A. Hucklesby, University of Leeds; G. Mclvor & H. Graham, University of Stirling; K. Beyens, Vrije Universiteit, Brussels; F. Dünkler, University of Greifswald; M. Boone, Utrecht University) Available at http://emeu.leeds.ac.uk/ and https://www.stir.ac.uk/research/hub/contract/1664</p>		
<p>The EU comparative research project was EC-commissioned to provide original knowledge about how electronic monitoring (EM) is used – and could be used – as an alternative to custody. Mixed methods included: literature review, analysis of legal and policy frameworks, many hours of observation of all aspects of the EM process, and 191 interviews (see R2). In Scotland, participants included the judiciary, Police Scotland, Scottish Prison Service, Parole Board, Criminal Justice Social Work, G4S EM services, Scottish Government policymakers, and a third sector advocacy organisation. Key research findings and recommendations (see R1, R2, R3):</p> <ul style="list-style-type: none"> • There was moderate support for introduction and proportionate use of new EM technologies (e.g., GPS), but it needed a legislative basis (new primary legislation) to be introduced; • There was moderate support for EM to be re-introduced with bail to reduce remand in custody; • EM should be better integrated with rehabilitation-oriented supervision and support options, including by Justice Social Work, if introduced as an option within more order or licence types (e.g., Community Payback Orders). It should not simply be about monitoring and control; • Compliance and breach policies and practices required improvement to manage risk and better respond to non-compliance. This necessitated provision of guidance for practitioners in their work with people who were not complying and may be at risk of not completing their order (and returning to court or prison); • Greater awareness was needed to improve understanding of EM among professionals, politicians, media and the public to foster realistic, informed views of EM, in context. 		

In 2016, five events were held to share comparative and country research findings with 330 participants from 26 countries. Dr Graham presented on the research as an invited plenary speaker in April 2018 at the Confederation of European Probation international electronic monitoring conference in Zagreb (230 participants from 40 countries), and in September 2018 at the Technology in Criminal Justice Expert Group in Helsinki (15 participants from 6 countries).

2. **Scottish and International Review of the Uses of Electronic Monitoring (2015)**, Graham and Mclvor, Scottish Centre for Crime and Justice Research (SCCJR) at the University of Stirling, commissioned by Scottish Government Expert Working Group on Electronic Monitoring (SGEWG on EM).

This 137-page evidence review (**R4**) analysed evidence and experience on electronic monitoring uses, costs, impacts and effectiveness, with a focus on newer EM technologies (GPS, alcohol monitoring). It found that flexible and proportionate uses of EM can motivate people to comply with and complete justice orders in the community, as an alternative to imprisonment. It also found that responding to diversity and vulnerability of monitored people in inclusive and recovery-oriented ways can significantly influence outcomes. One key recommendation was to integrate uses of EM with supervision and support options in Scotland, encouraging access to support and treatment, and enabling people to keep jobs if they have one. It also provided evidence supporting the introduction of GPS tracking and victim-centric exclusion zones, which can be tailored to particular offences and circumstances, for example, domestic abuse or sex offending. This review directly informed the SGEWG as they considered advancement of uses of EM and law reform in Scotland.

3. **Scottish evaluation research (2007, 2011)** Malloch et al., Scottish Centre for Crime and Justice Research (SCCJR), commissioned by the Scottish Government/Executive.

This mixed-methods evaluation research analysed uses of EM and home curfews as an early release mechanism for prisoners (**R5**) and individuals on bail instead of remand (**R6**) in Scotland. This research indicated that EM was used to manage (reduce) numbers of people in custody, but needed improved interagency coordination to better integrate EM with supervision and support in the community. The research (**R5**) was used/cited by HM Inspectorate of Prisons for Scotland and HM Inspectorate of Constabulary for Scotland joint review of Home Detention Curfew (EM with prisoners, as an early release mechanism) in 2018-2019 and informed recommendations for practice reform to Scottish Government and Parliament, during deliberations of the Management of Offenders Bill. This led to amendments to the Bill and revised practice guidance and criteria.

3. References to the research

The research was externally funded, commissioned by the Scottish Government/Scottish Executive and the European Commission, as well as promoted by Confederation of European Probation (CEP). Outputs have been published in English, German, French, and Dutch:

- R1.** Graham, H., & Mclvor, G. (2017) 'Advancing electronic monitoring in Scotland: Influences of localism and professional ideologies' *European Journal of Probation* 9(1): 62-79. [Special Issue: Electronic monitoring and supervision: A comparative perspective]. DOI: [10.1177/2066220317697659](https://doi.org/10.1177/2066220317697659)
- R2.** Hucklesby, A., Beyens, K., Boone, M., Dünkel, F., Mclvor, G., & Graham, H. (2016) *Creativity and Effectiveness in the Use of Electronic Monitoring: A Case Study of Five Jurisdictions* [comparative research report], Leeds: University of Leeds and Criminal Justice Programme of the European Commission. Available online: <http://hdl.handle.net/1893/23603>

- R3.** Mclvor, G., & Graham, H. (2016) *Electronic Monitoring in Scotland* [research report], Stirling: University of Stirling and Criminal Justice Programme of the European Commission. Available online: <http://hdl.handle.net/1893/23601>
- R4.** Graham, H., & Mclvor, G. (2015) *Scottish and International Review of the Uses of Electronic Monitoring* [report] Stirling: Scottish Centre for Crime and Justice Research [SCCJR], University of Stirling. Available online: <http://hdl.handle.net/1893/22183>
- R5.** Armstrong, S., Malloch, M., Norris, P., & Nellis, M. (2011) *Evaluating the Effectiveness of Home Detention Curfew and Open Prison in Scotland*, Scottish Government Social Research, Edinburgh, UK. Scottish Centre for Crime and Justice Research, University of Stirling, commissioned by Scottish Government. Available online: <http://stir.ac.uk/520>
- R6.** Barry, M., Malloch, M., Moodie, K., Nellis, M., Knapp, M., Romeo, R., & Dhanasiri, S. (2007) *An Evaluation of the Use of Electronic Monitoring as a Condition of Bail in Scotland*, Edinburgh: Scottish Executive Social Research. Scottish Centre for Crime and Justice Research (SCCJR), commissioned by Scottish Executive. Available online: <http://stir.ac.uk/523>

4. Details of the impact

Scotland and other European jurisdictions face acute issues of rising prison numbers and mass incarceration, often accompanied by overcrowded and inhumane prison conditions, high levels of staff stress and absence, and spiralling costs. Scotland has one of the highest incarceration rates in Europe. Authorities are looking to understand better how people can be effectively monitored and supervised in the community, rather than sentenced to prison or remanded in custody. Towards this purpose, our research has helped to inform and change tagging laws and practices.

From 2015-2020, our research has informed and influenced key decision-making and reform of legislation, policy and practice on EM in Scotland – and, significantly, was among the few pieces of academic empirical evidence on EM used by the Scottish Parliament in this law reform process. Our research (**R1**, **R2**, **R3**, **R4**) offered the Scottish Government and Scottish Parliament empirical evidence of how EM can be used in community sentences (diversion from prison) and as a form of early release from prison (decarceration), to inform law reform and practice development.

Management of Offenders (Scotland) Act 2019

For two decades, use of electronic monitoring had not substantively changed in Scotland until the Management of Offenders (Scotland) Act 2019 passed in July 2019. The EM components of this Act are informed by our research findings and recommendations, which are reflected in those of the EM Expert Working Group, and our research is named and repeatedly cited (**S1**, **S2**, **S7**). For the first time in Scotland, the Act enables the introduction of new EM technologies (GPS location monitoring, alcohol monitoring), and the prospect of EM integrated with supervision and rehabilitative activities for people on a Community Payback Order. By December 2019, the Scottish Government [reported](#) ‘significant increases’ in courts imposing EM and ‘the numbers of electronically monitored community sentences are now at the highest level ever seen in Scotland’. The Scottish Government procured a GBP40,000,000 new contract with an EM service to introduce the new tagging technologies required by this Act and expand the use of EM as an alternative to custody. In October-November 2020, the Government laid two new pieces of secondary legislation (regulations, i.e. [The Electronic Monitoring \(Relevant Disposals\) \(Modification\) \(Scotland\) Regulations 2020](#)) before the Scottish Parliament to activate parts of the 2019 Act. These Scottish Statutory Instruments were approved by the Parliament enabling the re-introduction of EM as an option with bail, along with updated practice guidance. In 2020, the longstanding issue of remand in Scotland was exacerbated by the pandemic and, by October, people on remand accounted for approximately 27% of the Scottish prison population due to a COVID-19-related court backlog. EM Bail was presented as an option to try to reduce such a high use of remand in custody: this only became an option because of the passing of the 2019 Act and our research that informed it.

The Act introduced the following EM measures, informed by our research recommendations from **R2**, **R3**, and **R4**, which were embedded in the final report of the EM Expert Working Group (**S2**), which formed the basis for the Act. The measures were further informed by written and oral evidence provided by Dr Graham to Scottish Parliament Justice Committee on the Bill (**S4**, **S6**).

1. It enables GPS tagging to be used in ways which simultaneously prioritise proportionality alongside victim and public protection in particular cases and types of risk (e.g., domestic abuse; sex offending; or restrictions away from places and at times associated with crime).
2. The Act adds the option of an electronic monitoring requirement to the Community Payback Order (the most common form of social work order), meaning that EM can be better integrated with supervision and support and, potentially (if assessed as appropriate), can be used in hundreds or thousands more cases as an alternative to custody.
3. The Act also enables EM to be added as an option to bail to try to reduce Scotland's high use of remand in custody.
4. Breach criteria and responses to (non)compliance have also been clarified and improved by this new law and practice guidance.

In summary, the new Act has permanently changed electronic monitoring in Scotland.

When the Act was successfully passed into law in June 2019, the Scottish Government issued a [press release](#) (**S8**) in which Dr Graham was quoted alongside Cabinet Secretary for Justice Humza Yousaf, with the Government describing her as '**a criminologist at Stirling University and leading electronic monitoring researcher whose work informed the Management of Offenders Bill**', now an Act. Dr Graham was the only named researcher in the press release, underlining her contribution to the process of reforming EM in Scots law.

Impact on public policy prior to the Act

HM Inspectorate of Prisons for Scotland and HM Inspectorate of Constabulary for Scotland name the 2011 EM evaluation research (**R5**) as having informed their 2018 joint Inspectorate review report (**S5**) on using EM as a form of early release from prison on licence (Home Detention Curfew). The joint review and practice recommendations were requested by the Cabinet Secretary for Justice and scrutinised by the Parliament Justice Committee in deliberating the Management of Offenders (Scotland) Bill, alongside a Government review (**S7**) extensively citing our research.

The contribution of our research to the Scottish EM law reform process began with the Scottish Government's Expert Working Group on Electronic Monitoring (2014-2016). The Expert Working Group on EM commissioned and published our report (**R4**). In launching our report at a national conference on EM in August 2015, then Cabinet Secretary for Justice Michael Matheson featured it in a keynote speech and Scottish Government press release (**S1**) saying: '**I welcome these findings which is an important step forward in shaping the future of electronic monitoring in Scotland...** This latest research and today's conference is another step forward in evidence gathering.' In 2016, the Expert Working Group [Final Report](#) (**S2**, 2016: 4) to Scottish Ministers states: 'the Working Group sought to envision a new strategy for EM use in Scotland... this envisioning was guided by a review of international research evidence on EM specially commissioned by the Scottish Government, and by the findings of an EU funded comparative research project on EM in which Scotland took part' (that is, **R4**, **R2** and **R3**), with our research cited extensively throughout their report (pages 3, 4, 13, 22, 23, 25, 26, 29, 32, 49, 53, 58, 60, 63). Their recommendations included and affirmed our research recommendations: introducing new technologies (e.g., GPS), proportionate and tailored uses that better integrate EM with supervision and support, clarifying and improving responses to breach and compliance with EM, and awareness raising about EM. In a 2016 press release about advancing EM in Scotland, the Cabinet Secretary for Justice Michael Matheson acknowledged our research evidence and accepted the Expert Working Group's report recommendations and new strategy in full (**S9**), with Dr Graham quoted alongside the Cabinet Secretary, with the Government describing her as the 'electronic monitoring researcher who carried out the studies' with Prof McIvor. These formed the basis of the relevant section of the Government's Management of Offenders (Scotland) Bill/Act.

In March 2018, Dr Graham submitted written evidence based on our research, and in April 2018, she was invited to give oral evidence as an expert witness to the Scottish Parliament Justice

Committee about the Management of Offenders (Scotland) Bill (S4). Our EM research was also cited in evidence submissions by other agencies, for example, Community Justice Scotland and the Criminal Justice Voluntary Sector Forum. In 2019, our evidence on EM was cited several times in the Justice Committee [Stage 1 Report on the Bill](#) (S6) published in 2019, and in a speech by an MSP in Parliamentary debate on the Bill in February 2019. In April 2019, a [Scottish Government Justice report](#) (S7) reviewing the evidence on EM and home detention was published, to inform discussions of the Bill and practice reforms at the Justice Committee; it cited our Scottish and European EM research extensively.

Our Ongoing Impact Development

Our EU comparative and Scottish research (R1, R2, R3) has been recognised by the European Commission Directorate-General of Justice (S10) as ‘the first comparative empirical study’ of its kind in Europe. They said this ‘useful’ and ‘highly relevant’ ‘project has improved knowledge and understanding of electronic monitoring in Europe, and has certainly identified best practices which can easily be transferred to other Member States.’ Our research evidence and expertise has helped frame media and public debates (with 30+ news media reports in Scotland) and inform major European events and expert groups on uses of EM in criminal justice.

5. Sources to corroborate the impact

- S1. Scottish Government press release (August 2015) with Cabinet Secretary Michael Matheson welcoming the publication of Graham and Mclvor’s EM evidence review report. <http://stir.ac.uk/51j>
- S2. Electronic Monitoring in Scotland Expert Working Group Final Report (2016) – extensive references (pp. 3, 4, 13, 22, 23, 25, 26, 29, 32, 49, 53, 58, 60, 63) to our research and how it has informed the report and recommendations to Scottish Ministers. <http://stir.ac.uk/51l>
- S3. Scottish Parliament Parliamentary questions – 16th March 2017. Our research is referred to by the then Scottish Government Cabinet Secretary for Justice, Michael Matheson MSP. <http://stir.ac.uk/51o>
- S4. Scottish Parliament Justice Committee meeting transcript (15th May 2018). Graham appearing as an expert witness giving evidence on the *Management of Offenders (Scotland) Bill*, with reference to her research with Mclvor on electronic monitoring and why law reform is needed to advance EM in Scotland. <http://stir.ac.uk/51c>
- S5. HM Inspectorate of Prisons for Scotland Report, Report on The Review of The Arrangements for Home Detention Curfew within The Scottish Prison Service (October 2018). R5 cited (see p.4) as informing this report, which makes recommendations for reforms. <http://stir.ac.uk/51r>
- S6. Scottish Parliament Justice Committee, Stage 1 Report on the Management of Offenders (Scotland) Bill, 31st January 2019, SP Paper 460. Graham’s evidence cited (pp. 2, 17, 29, 51, 57, 61) in this official report on the *Management of Offenders (Scotland) Bill*. <http://stir.ac.uk/51f>
- S7. Scottish Government, Electronic monitoring: uses, challenges and successes, April 2019. This report informed the 2019 Act, this review on using EM and Home Detention Curfew cites our Scottish and European research extensively (see pp. 5, 8, 10, 13, 14, 16, 22, 26, 27, 28, 29, 32, 33, 42, 49, 50, 52, 61). <http://stir.ac.uk/4t1>
- S8. Scottish Government press release (June 2019) with Graham quoted alongside the Cabinet Secretary for Justice Humza Yousaf MSP. <http://stir.ac.uk/51u>
- S9. Scottish Government press release (October 2016) with Graham quoted discussing our research alongside the Cabinet Secretary for Justice Michael Matheson acknowledging the evidence and accepting the recommendations. <http://stir.ac.uk/51x>
- S10. European Commission Directorate General for Justice – 2016 – Annex II: Comments on the EM in the EU comparative research project (JUST/2013/JPEN/AG/4510).