

# Electronic monitoring in the Netherlands

## Results of the experiment

### Summary

The idea of electronic monitoring first surfaced in the media in mid 1987 during the quest for suitable alternatives for detention in the Netherlands' limited cell capacity. In early 1988, Ministry of Justice officials informed the House of Parliament of the ministry's plans to appoint a committee to study the potential benefits of what was then termed "electronically supervised house arrest";. By late 1988, the committee (called the Committee on Electronic Monitoring of Offenders, or Schalken Committee) submitted its recommendations. The tenor was reserved. Given the results of electronic monitoring programmes in the United States, the Committee believed it to be a viable alternative for pre-trial detention or non-suspendable prison sentences - provided that certain additional conditions applied. These included a schedule of constructive daily activities, limited duration (not to exceed four months) and the participants' explicit consent to the programme. Nonetheless, the Committee felt it ill-advised to introduce electronic monitoring into the Dutch criminal justice system and considered the time unripe to even experiment with the measure. They felt that any steps in that direction should be preceded by discussions of the principles involved. The committee also feared that electronic monitoring might - among other things - grow to undesirable proportions, possibly replacing the "alternative sanctions like community service and infringe greatly on the privacy of the participants and their families. When the Consultative Committee on Alternative Sanctions (hereinafter referred to by its Dutch abbreviation, *OCAS*) also showed a lack of enthusiasm concerning the advantages of electronic monitoring, the issue drew to a halt for some time (*OCAS*, 1990). In 1994, however, preparations began for a pilot project, which was launched on 11 July 1995. The project, which lasted two years and took place in the Groningen, Leeuwarden, Assen and Zwolle court districts, sought to determine whether electronic monitoring was a suitable alternative for (part of) a non-suspendable prison term. Currently, electronic monitoring participants fall into two basic categories. The first category consists of individuals placed under electronic monitoring in combination with a community sanctions. This includes individuals who would otherwise face non-suspendable prison sentences of six to twelve months for their offences. Given the severity of their potential sentences, they do not qualify for community service penalties. However, a combined penalty of community service and placement under electronic monitoring could serve as sufficient punishment and avoid the need for incarceration. Where this option is applied, the offenders receive non-suspendable six-month sentences, which are converted into community service. In addition, they are granted suspended prison sentences on the condition that they participate in an electronic monitoring programme for a number of months. The second category of participants comprises inmates in the final phase of their sentences. Inmates who have served out at least half of their detention in a closed or half-open institution, and who meet certain criteria, may be eligible to serve out the remainder of their sentences at home. In these cases, electronic monitoring - like placement in open penitentiary institutions or daytime detention institutions - comprises a phase in detention. Another group of participants consists of inmates in detention centres with little time left to serve once their sentences become irrevocable. Placement under electronic monitoring ranges from one to six months. This applies to the "community service" group, as well as to both groups of inmates (hereinafter referred to as the "final-phase inmates" for purposes of convenience). Participants in the pilot projects had to meet certain eligibility requirements. For one thing, they had to have suitable living accommodations in the pilot project region. Moreover, they, as well as their housemates, had to consent to electronic monitoring. A daily schedule of constructive activities (such as work or study) throughout the programme was another major requirement. Candidates for electronic monitoring are recommended to the Probation and After-Care Board by such parties as the social service departments of penitentiary institutions, solicitors and the Public Prosecution Department. The Probation and After-Care Board draws up an evaluation of each candidate's suitability, including recommendations on the terms and conditions for participation in the programme. Candidates are placed under electronic monitoring by decision of the courts or the Advisory Selection Committee for the prison system.

The individuals placed under electronic monitoring (hereinafter referred to as participants) follow a mandatory schedule of daily activities throughout the programme. This schedule consists - among other things - of work, study, treatment, household tasks or participation in the programme at the daytime detention institution in Groningen. Participants may also be allowed one or more hours in their daily or weekly schedules to spend as they choose. During the remaining time, participants must stay at home. Their mandatory presence there is monitored electronically. Participants wear an ankle band equipped with a transmitter. The transmitter sends out two signals per minute to the receiver installed in the participant's home. The receiver, in turn, is monitored via the telephone lines by a computer in the monitoring unit of a private security company. The daily schedules of

all participants are stored in the computer. The computer monitors the participants' presence/absence at random times. The computer will activate an alarm if signals fail to correspond to the registered daily schedule, or if participants attempt to remove their ankle bands. When this happens, the probation authorities are notified immediately. They, in turn, contact the participant to find out why this occurred. Lesser violations, such as returning home late and absence outside permitted hours, result in warnings. Second, or very serious violations (e.g. committing a crime) are punished by withdrawal from the programme. The Probation and After-Care Board maintains personal or telephone contacts with the participants to stay informed about their progress under electronic monitoring, to report any adjustments needed in the daily schedule and to offer assistance when problems arise. During its pilot project period, the electronic monitoring programme had a maximum participant capacity of 50 at any given time.

## **Study**

To determine whether electronic monitoring is a viable alternative for (part of) a non-suspendable prison sentence, the *WODC* evaluated the program, thereby focussing on two aspects. The first part focused on examining how the pilot project was set up and how the organizations involved (the Probation and After-Care Board, the prison system, the judiciary and the Ministry of Justice) approached cooperation during the initial, experimental years. The findings of Part I of this study were outlined in a previously issued interim report (Spaans, 1996). An overview of the most significant findings from that report has been included in appendix 2 of this final report. Part II of the study, which forms the topic of this report, concentrated largely on the results of the electronic monitoring pilot project. Below is an overview of the questions dealt with here.

- Who are the candidates for electronic monitoring?
- Of the candidates submitted, which are selected and which are rejected as participants in the electronic monitoring programme (and why)?
- How does electronic monitoring work in practice and what course does it take?
- What factors affect the course and final outcome of electronic monitoring?
- How much detention time does electronic monitoring replace?
- How do participants and their housemates feel about electronic monitoring?

Most of the information in this final report relates to the period starting at the onset of the pilot project in July 1995, and lasting through January 1997. Our information sources included the files of the Probation and After-Care Board, the case files of the community service participants and the prison records on the final phase inmates. We also collected some data from the candidate submissions for and placements in the electronic monitoring programme during the last half year of the experiment: from February 1997 to July 1997. Interviews of 48 participants and 21 housemates offer a picture of the "clients"; experiences with electronic monitoring.

### **Electronic monitoring in practice**

#### *Candidate submissions and recommendations*

During the first eighteen months of the pilot project, 279 candidates were submitted to the Probation and After-Care Board for evaluation of their suitability for electronic monitoring. Two thirds of that group were final-phase inmates, the majority of which came from the Bankenbosch and Groningen penitentiary institutions. Most of the candidates for combined penalties of community service and placement under electronic monitoring were submitted by the office of the public prosecutor and solicitors.

Over 90% of the recommendations issued by the Probation and After-Care Board is positive. When probation authorities advise against placement in the programme, it is usually in cases where the individual lacks suitable living accommodations or (opportunities for) a daily schedule of constructive activities, or where the home environment poses problems. Some two-thirds of the candidates recommended by probation authorities are approved by the Advisory Selection Committee and the courts. Some of the candidates sifted out were felt to be unreliable in terms of motivation and determination by the Advisory Selection Committee despite positive recommendations from probation authorities. Others were found by the courts to merit a penalty other than community service and placement under electronic monitoring. Of the candidates not approved by probation authorities, none were placed under electronic monitoring.

### *Acceptance and rejection of candidates for electronic monitoring*

Almost half of the candidates submitted (126 individuals) were placed under electronic monitoring. One eighth had yet to enter the programme or were awaiting a candidate recommendation or placement decision at the time data collection was completed. The remaining candidates (slightly over 40%) were not placed under electronic monitoring for a variety of reasons. Of the candidates sifted out, a comparatively large number had been submitted as candidates to serve out a combined sentence of community service and placement under electronic monitoring. Of all the community service candidates recommended by the probation authorities, some two-thirds were sifted out. Most were found ineligible by the courts. In some of these cases, a combined penalty of community service and electronic monitoring was felt too severe, whereas others were felt to merit a non-suspendable prison sentence of eight to twelve months. This outcome suggests that much of the probation authorities' (advisory) work is fruitless in submitting candidates for electronic monitoring in the community service framework. Most of the final-phase inmates not approved for placement in the programme (almost one fourth of all the candidates submitted) either withdrew themselves from the selection process or were withdrawn by their penitentiary institutions. Reasons for voluntary withdrawals included the time-consuming procedures or preference for an open institution. Non-voluntary withdrawals were disciplinary measures for such violations as failure to return from week-end leaves or use of drugs/alcohol.

### *Characteristics of the participants*

Of the 126 individuals placed under electronic monitoring, 110 were final-phase inmates, and 16 community service participants. Their convictions (at that time) were for crimes ranging from social benefit fraud to numerous counts of shoplifting, extortion, kidnapping, manslaughter and (attempted) murder. The 8 women and 118 men in question had an average age of 34. Most were of native Dutch heritage (80%) and were married or living with a permanent partner. Previous to their arrests or detention, slightly over half had been salaried employees. The remainder were unemployed, (temporarily) incapacitated for work, housewives, or were attending an educational programme. According to the case files, 11% of the participants were using excessive amounts of alcohol at the time of their arrest or during the period preceding detention. In total, 9% of the participants were found to be using hard drugs. This figure puts the percentage of (former) hard drug users at half of that found for the candidates rejected or withdrawn. In other respects, the differences were negligible between the accepted candidates and those sifted out. We should note here that participating final-phase inmates show little, if any difference, to the "average" long-term inmate in Dutch penitentiary institutions as regarding age, gender, daily activities before detention and drug use.

### *Characteristics of the electronic monitoring programme*

From the time of its introduction, the electronic monitoring pilot project grew by leaps and bounds. The expansion is almost entirely attributable to the participation of final-phase inmates. Participation in the framework of community service penalties only began to gain any momentum in the second experimental year. The number of community service participants peaked between January 1997 to July 1997, during which period approximately 10 of these individuals were under electronic monitoring each month. The number of participating final-phase inmates during that period averaged at forty per month. They, together with the community service participants, filled almost all of the fifty places available during the last six months of the pilot project period.

On average, participation in the programme lasted 3.5 months. Almost half of the participants were enrolled in the programme at the daytime detention institution in Groningen. The major portion of the (remaining) daily activities of most participants' schedules consisted of working in volunteer programmes or project posts in service organizations, a private or family business, or for a private-sector employer. Almost three-fourths of the participants work for an average of 36 hours per week (distributed over five days). Other activities in the mandatory daily schedule include attending (full-time) vocational training courses, performing household duties, taking care of children, receiving therapy or performing a community service imposed by way of penalty. Including their spare hours, the participants' schedule consists, on average, of some fifty hours per week. Participants who adhere to the agreements are rewarded with an average of nine additional spare hours per week.

### *Course and final outcome of participation in the programme*

In one fifth of all cases, problems arise during electronic monitoring. In some cases, it proves difficult to find the participant suitable work. Other cases involve tension in the home situation. Occasionally, the equipment sends out vague or false alarm signals. One sixth of the participants are issued an official warning during participation

in the programme. Usually, warnings result from unauthorized absence or failure to return home on time. The grand majority of all participants leaving electronic monitoring completed the entire programme. One tenth of the participants left prematurely. Their removal resulted from such problems as a second unauthorized absence or late return home, or relationship problems that prompted partners to withdraw their consent to the programme. Two participants were removed prematurely for having been arrested by police on suspicion of drug trafficking and shoplifting. The course and final outcome of participation in the programme show no correlation with the duration of electronic monitoring, the framework for placement (community service or final phase sentence enforcement), the number of mandatory house-bound hours per day or week, or the participants' home situation (presence or absence of housemates).

#### *Alternative for a non-suspendable custodial sentence*

Twenty of the participants in the study period had been sentenced to a combined penalty of community service and electronic monitoring. Most of them were sentenced to 240 hours of unpaid labour as an alternative for a six-month, non-suspendable prison sentence plus a six-month suspended sentence (granted on condition of a two to six-month period of placement under electronic monitoring). Most of the sentences in question were imposed by the courts in Zwolle and Leeuwarden. The Zwolle court imposed five, and the Leeuwarden court six, combined penalties of community services and electronic monitoring. To determine whether community service in conjunction with electronic monitoring is a suitable alternative for a non-suspendable prison sentence exceeding six months, we calculated what we call "severity scores" using the information from the case files. These severity scores offer an indication of a major factor in sentencing: the gravity or seriousness of the case in question. Such scores were calculated in a previous *WODC* study into "regular" mandatory labour penalties and short-term custodial sentences imposed on offenders of legal age (Spaans, 1995). On comparing the severity scores of the community service participants with individuals who received regular mandatory labour penalties or short-term custodial sentences at some time in the past, we found considerable differences. The average severity score for individuals who received combined penalties of community service and electronic monitoring is significantly higher than the average figure in previous research for individuals that received a mandatory labour penalty or short-term custodial sentence only. These findings suggest that a combined penalty of community service and electronic monitoring is indeed a suitable alternative for a non-suspendable prison sentence exceeding six months. That is, of course, assuming that the application of mandatory labour penalties has not undergone all too drastic a change; in other words, that mandatory labour penalties are (still being) imposed for offences of similar severity.

Participation in the electronic monitoring programme replaced an average of one fifth of the total detention time being served by the 110 final-phase inmates. Of the average detention period of 19 odd months served by the inmates in actual detention (including pre-trial detention, but not early release), 3.5 months were spent under electronic monitoring. Precisely one half of the final-phase inmates were transferred into the programme from a half-open institution. Almost one fourth were sent from detention centres; these individuals served out the (short) remainder of their sentences - once they became irrevocable - at home. The remaining final-phase inmates entered the programme directly from prisons for long-term inmates or from open penitentiary institutions. In most cases, placement under electronic monitoring was combined with participation in a programme at a daytime detention institution. The programme was offered during the first six weeks of placement under electronic monitoring. (This combination of programmes is referred to as the ES-plus option). It should also be noted here that the average sentence duration for final-phase inmates shows no difference to that of average long-term inmates in the Netherlands (*CBS*, 1997).

The same applies to the crimes of which they were convicted. In other words, the participating final-phase inmates and "average" long-term inmates in penitentiary institutions are much the same not only in terms of their age, gender, daily activities before detention and drug use, but also of the offences on their criminal records and the sentences they received.

#### *Views and experiences of participants and their housemates*

In total 48 participants and 21 of their housemates were interviewed. We can infer from the findings that electronic monitoring is experienced as a real form of punishment. Although half of the participants interviewed felt that electronic monitoring was less severe punishment than detention in prison, they indicated that it was "no bed of roses". Electronic monitoring requires a great deal from participants in terms of their self discipline and sense of responsibility. The programme's rigid daily schedule was experienced as a considerable restriction of personal freedom. Other aspects experienced as punitive involved the equipment and the programme's impact on life in the home. At times, for instance, the ankle band transmitter caused (skin) irritation or gave rise to

problems during exercise or walking (up and down stairs). Moreover, the transmitter was not always easy to camouflage. Consequently, some participants consciously gave up certain activities. Participants and their housemates found the restrictions caused by the equipment in the use of the telephone to be the most bothersome aspect.

Electronic monitoring also proved at times to cause tension in the home, especially during the initial phase. The process that participants and their housemates face of re-adjusting to one another, together with their usually very small initial allotment of spare hours, causes both sides to feel as though they "are cramping each other's space". Moreover, in a certain sense, electronic monitoring lays restrictions on housemates. The housemates interviewed indicated that they felt rather guilty (initially) about leaving because participants had to remain at home. Some felt less inclined to invite friends or acquaintances home. According to most of the participants, however, electronic monitoring did not infringe significantly on their privacy. A very small number of the housemates felt that they had been punished by electronic monitoring along with the participant.

Aside from these disadvantages, the participants and their housemates felt that they had benefited considerably from the programme. The most important advantage cited - usually by partners and children - was the participants' (renewed) presence in the home. The daily schedule of activities offered participants a constructive way to spend their time - work during the day, and time at home on evenings and week-ends. The housemates no longer had to make prison visits, which saved them time, and often money. Most participants were satisfied with the supervision of the Probation and After-Care Board. On weighing the advantages against the disadvantages, the grand majority of participants preferred electronic monitoring to detention in a penitentiary institution.

## Discussion

Given the findings of our study, we can conclude that electronic monitoring is a viable alternative for certain options for enforcing (part of) non-suspendable prison sentences. This applies to the community service framework for participation, as well as to framework for final phase sentence enforcement. The individuals sentenced to a combined penalty of community service and electronic monitoring would seem thus to have dodged a non-suspendable deprivation of liberty sentence of over six months. Electronic monitoring does not appear to have "net-widening effect". In other words, it is not being imposed as an additional penalty in cases in which community service alone would suffice. On average, inmates placed under electronic monitoring in the framework for final phase sentence enforcement serve out one fifth of their total sentences in this extramural programme. These inmates are no different in terms of their backgrounds and sentence duration from the average inmates in penitentiary institutions. Electronic monitoring has also proven to be a suitable alternative for detention in another respect. According to the participants, electronic monitoring is clearly punitive: it is a very intensive corrective intervention programme of strict rules and regulations, and demands much from participants in terms of their self discipline and sense of responsibility.

A look at the number of successful participants and drop-outs in the pilot project would - without question - reveal positive results. Recent evaluations of two experimental projects outside the Netherlands, which were very similar to this pilot project, reveal that a drop-out rate of 10% is low. One of these recently completed experiments with electronic monitoring, a project in Great Britain, had a drop-out rate of 25%. The participants in the pilot project in question had been sentenced to electronically supervised house arrest. (Mair en Mortimer, 1996). The second pilot project, which took place in Sweden, had a drop-out rate similar to the Dutch project (8%; see Bishop, 1996; Somander, 1996). The Swedish pilot project focused on a much easier target group, namely individuals who had been sentenced to non-suspendable prison terms of two to three months for mostly drunken driving, and who were awaiting their detention summons at home (the "voluntary registration" group). Sweden's probation authorities fulfil much the same role as their Dutch counterparts. For one thing, they issue recommendations concerning the candidates' suitability for electronic monitoring. They also draw up the participants' daily schedule of activities. Finally, they offer participants intensive assistance and supervision throughout their period of electronic monitoring. In contrast, the British probation authorities have little involvement in electronic monitoring. The British participants only had (sporadic) contact with the security company that installed the equipment and monitored adherence to house arrest. The terms and conditions of the electronic monitoring programme, together with intensive supervision from probation authorities, appears to explain much of the difference in the success of the Dutch and Swedish pilot projects as compared to the British experiment. In these respects, the approach to electronic monitoring in the Netherlands satisfies a number of the requirements cited by the Schalken Committee. For one thing, electronic monitoring is only imposed in conjunction with a daily schedule of constructive activities and may not exceed six months. Moreover, it is imposed only where recommended by probation authorities. In contrast to the Schalken Committee's view, electronic monitoring is not viable as an alternative for pre-trial detention. What is more, application of

electronic monitoring as an option for the final phase of sentence enforcement, an option rejected by the Schalken Committee, proved to be a major function of the pilot project. To prevent electronic monitoring from replacing mandatory labour penalties, combined penalties of community service and electronic monitoring have been reserved exclusively for suspects facing a non-suspendable prison sentence of over six months. Finally, we should note that almost all of the participants in the Dutch pilot project were working or enrolled in vocational training or other courses and that none were at home seven days a week, 24 hours a day. It is safe to assume that electronic monitoring thus contributed to the resocialization of the participants.

We should, however, add a few of qualifying remarks here. Our first remark concerns the number of candidate submissions and placements in the electronic monitoring programme. Although as a programme for the final phase of sentence enforcement, electronic monitoring can be said to function fairly smoothly, we should bear in mind that most of the inmates submitted as candidates came from two penitentiary institutions: one in Bankenbosch and one in Groningen. These two "primary source institutions" were involved in the preparations for the pilot project. Other penitentiary institutions in the project region submitted no more than ten candidates in all of the first 18 months of the project. For this reason, much effort will continue to focus on providing information about electronic monitoring to the social service departments of other penitentiary institutions. In contrast, participation in the community service framework has been very slow in gaining ground. Despite repeated attempts to inform the judiciary about the programme, solicitors and the probation officers they work with have continued to submit few candidates. To a great extent, this may result from the judiciary's sense of reserve about - or "lack of familiarity" with - the programme (See *Nieuwsbrief*, 1997). Often, judges and public prosecutors take the position that it is up to suspects, their lawyers or probation officers to take the initiative in requesting combined penalties of community service and electronic monitoring. They are felt to be the ones who should submit a well developed proposal, as is the case with "regular" mandatory labour penalties (see appendix 2 and Spaans, 1996). Of the community service participants for whom detailed proposals were submitted, only one third were placed under electronic monitoring. The others received a (much) lighter - or more severe - sentence. Aside from the fact that the community service framework has created a great deal of fruitless labour for probation authorities, these views give rise to the question of whether there is any need for this framework. And this question is one that requires our attention now. After all, legislation is soon to be introduced, which would allow combined sentences of community service with short, non-suspendable prison terms.

Another qualifying remark concerns the programme's potential for diminishing the problem of insufficient cell capacity. Given the small number of community service participants, let us disregard them and focus on the final-phase inmates. As we can see, it is difficult to estimate what impact the programme would make in this regard if introduced nation-wide. Although the Netherlands' long-term inmates (almost 5,000) are similar in their background characteristics and sentences to the participating inmates, we do not know how many of them meet the eligibility criteria as regarding housing, daily activities throughout the period of electronic monitoring and their ability to adhere to agreements. Naturally, we would also have to bear this in mind in making decisions to expand the target group to include suspects in pre-trial detention or individuals awaiting their detention summons (the "voluntary registration" group), etc. Introduction of electronic monitoring for such groups will also require sufficient provisions for effective preparation, programme contents and supervision.

Given the findings of this study, we can conclude that some of the dangers feared by the Schalken Committee have posed fewer problems in practice. We found nothing to suggest that electronic monitoring had a "net-widening effect". And although participants and their family members did not find the programme easy, electronic monitoring did not prove to be an unacceptable infringement on their privacy.

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### **Elektronisch toezicht in Nederland; uitkomsten van het experiment**

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