

THE BAIL PR@JECT

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**FALSE
FREEDOM:
EXPLORING
CLIENTS' PRETRIAL
EXPERIENCES ON
ELECTRONIC
MONITORS**

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DATA AND RESEARCH INTERN - SUMMER 2021

THE ELECTRONIC MONITOR EXPERIENCE

IN ST. LOUIS, MO & ST. CHARLES, MO

EXECUTIVE SUMMARY

A lack of transparency around the cost of electronic monitors, as well as a reduced ability to maintain employment while on a monitor, puts immense financial pressure on justice-involved people. With multiple fees and mobility conditions tied to their "freedom," individuals on electronic monitors are less able to continue living their lives and access invaluable support systems as they await trial.

INTRODUCTION

From cheaper communication to faster travel, many people associate technology with increased freedom. However, technological innovations in the criminal legal system have been widely used as tools of detention. One tool of increasing interest and concern is the electronic monitor (EM).

Often in the form of a wrist bracelet or ankle "shackle," **electronic monitoring technology** is used in all 50 states to surveil—and thereby restrict—a justice-involved individual's location and/or alcohol level. [1]

Rather than expanding freedom by decreasing jail populations, electronic monitors have "widened the net" of court surveillance. Many justice-involved people who could previously await trial unconfined in their home communities once they'd paid bail are now being released on restrictive pretrial electronic monitoring conditions.[2]

"You are supposed to be innocent until proven guilty. With all the restrictions and the electronic monitoring, we are guilty until proven innocent."
– Survey respondent

DIGITAL SHACKLES

The number of justice-involved individuals being electronically monitored has more than doubled in 10 years.[3] The ongoing COVID-19 pandemic has undoubtedly added to this upward trend in monitoring. With being in prison and jail increasing a person's risk of getting COVID-19,[4] many courts in the US have turned to releasing people into the digital shackles of continuous electronic supervision programs as an alternative to secure custody.[5]

Pretrial defendants—who have not been convicted and are awaiting trial—have been negatively impacted by this technological shift in the criminal legal system. Continuous electronic surveillance is replacing the less restrictive terms that can foster community care for pretrial releasees.[6] Homes have become prisons while smartphones or body monitors have become omnipresent guards.

While public safety concerns are often cited to justify its pretrial use, research suggests that electronic monitors do not conclusively reduce recidivism[7] or rates of failure to appear in court.[8] Like a trojan horse, electronic monitors are expanding the scope of debilitating social control under the guise of providing a safe, more humane alternative to jail.[9]

In a recent client survey...

54%

had an **ankle monitor**. 37% had a **smartphone app** (e.g. eHawk's RePath App).

1 in 3

had **taken out loans and/or gone into debt** to pay for their electronic monitor.

47%

were **extremely or somewhat uncertain** about **who had access to their electronic monitor data**

A TECHNOLOGICAL THREAT TO BAIL REFORM

Exacerbating systemic inequities in the criminal legal system, electronic monitoring has disproportionately impacted poor communities of color.[10] The expansion of electronic monitoring may threaten the progress of bail reform and other movements that seek to combat class and racial bias. For example, New York City notably eliminated the use of cash bail for people charged with nonviolent felonies in 2020 but also implemented its first pretrial electronic monitoring program.[11]

It is paramount that racist, inequitable policies are not simply replaced with new harmful systems. E-carceration is not the answer to mass incarceration.

ELECTRONIC MONITORING IN ST. LOUIS & ST. CHARLES

Across St. Charles County, St. Louis County, and St. Louis City, over 450 of The Bail Project's clients are on some form of electronic monitor. I conducted a survey to inform this report's discussion of client experiences on electronic monitors.[12]

Through surveying clients, I sought to better understand the social restrictions and financial costs experienced by our clients on electronic monitors. A secondary goal of the survey and this resulting report was to explore the extent to which our clients were aware of potential social and financial costs of electronic monitors before they were given it as a pretrial condition.

E-carceration describes the use of electronic monitors to "shift the site and costs of imprisonment from state facilities to vulnerable communities and households of color." [13] It is a false solution to incarceration.

FINANCING FALSE FREEDOM

Within the cash bail system, the financial cost of electronic monitors is another predatory tax on those seeking freedom. With some monitoring services costing \$300/month[14], it is no surprise that 1 in 3 of our surveyed clients has taken out a loan and/or going into debt to pay for their electronic monitor. These losses are particularly egregious when you consider that 55% of survey respondents strongly or somewhat disagreed that they knew about electronic monitors' financial costs before they were given one.

Individuals risk being taken into secure custody if they fail to keep up with the monthly fees required for their electronic monitor. However, some may argue that they are set up to fail. Stringent restrictions on where they can go—and when—can make it more difficult to get and keep the jobs needed to pay for the costly electronic monitors. With 85% of our surveyed clients having had their electronic monitor for over 3 months, the potential amount of lost earnings could be devastating.

In a recent client survey...

70%


strongly disagreed or somewhat disagreed that their financial need was considered when they were given their electronic monitor.

55%

strongly disagreed or somewhat disagreed that they knew the financial costs related to electronic monitors before they were given one.

58%

very frequently or frequently worried about being able to keep and/or get a job while on their electronic monitor.



Electronic monitoring often shifts the cost of surveillance and confinement from the state onto vulnerable communities. If the justice-involved person cannot afford to pay, their parents, children, friends, and/or spouses may end up footing the bill. These families may spend hundreds of dollars each month for a “freedom” so restricted that their monitored loved one can’t even visit them.

While some jurisdictions like Denver provide pretrial electronic monitoring for free[15], only 15% of the survey respondents noted that their monitors were paid for by the court/government. Even those who don't pay for their electronic monitors are still saddled with mobility restrictions that can harm their employment prospects and familial relationships.

"It is very costly and keeps you confined."
– Survey respondent

PROFITING FROM PRETRIAL ELECTRONIC MONITORS

At least 5 electronic monitoring providers operate across St. Louis County, St. Louis City, and St. Charles County:

- eHawk Solutions
- Community Services of Missouri
- Eastern Missouri Alternative Sentencing (EMASS)
- Missouri Alternative Pretrial Services (MAPTS)
- Private Probation Service TBN, LLC (PPSTBN)

These privately run organizations have little government oversight and yet they can play a major role in whether a pretrial defendant is able to avoid secure custody.

TW: this quote discusses suicidal ideations

"I absolutely hate it! I been on EM since January 2020 & I would like to get off ASAP. It's a shame the judge won't let me off of EM. Sometimes it makes me want to kill myself." – Survey respondent

THE SOCIAL COSTS OF ELECTRONIC MONITORS


Electronic monitors isolate people from family and employment for months at a time as they await trial. Our clients' survey responses and interviews help to illuminate the devastating social, physical, and mental health impacts of these punitive restrictions.

Around 74% of people locked up in jails have not been convicted of any crime.[17] These detained pretrial defendants, many of whom could not afford bail, are then left at risk of losing their jobs, housing, and custody of their children.[18] Electronic monitors impose similar mobility limitations and financial pressures on justice-involved people. Consequently, it is difficult for them to visit loved ones and maintain healthy relationships.

"It makes me feel very limited. I can't travel to see family, I can't go swimming or take a hot soaking bath after work. I'm always afraid that I may be too late getting home one night from work."
– Survey respondent

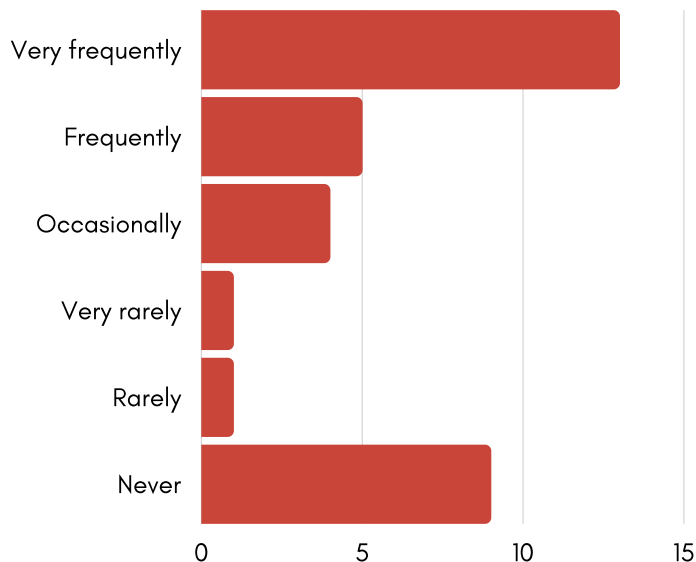
Research on the importance of social support has guided movements in favor of reducing pretrial detention. Among incarcerated individuals, contact with loved ones has been proven to reduce recidivism, thereby improving both rehabilitation and public safety.[16] Instead of increasing contact opportunities, restrictive electronic monitor conditions can similarly create significant barriers to invaluable community support and financial health.

Electronic monitors are often wrongly presented as a more humane alternative to this injustice because they enable people to avoid being jail pretrial. However, the restrictive mobility conditions tied to monitors can mirror the experience of being held in a cell. Some of the most prevalent conditions given to our surveyed clients included GPS location tracking, inclusion/exclusion zones, phone call check-ins, curfews, and video or photo check-ins.



Despite being back in their home communities, people on electronic monitors still face significant barriers to living their lives as they await trial. Stringent conditions can significantly limit an individual's ability to care for themselves and their children. Notably, 55% of our surveyed clients reported that they frequently or very frequently worried about being able to maintain relationships with their friends and family while on an electronic monitor.

SURVEY STATEMENT: "WHILE I WAS ON AN ELECTRONIC MONITOR, I WORRIED ABOUT BEING ABLE TO MAINTAIN CONNECTIONS AND RELATIONSHIPS WITH FRIENDS AND FAMILY."



85% of our surveyed clients have been on an electronic monitor for over 3 months. By isolating justice-involved people from community support systems and employment opportunities for long periods of time, electronic monitors threaten to deteriorate the rehabilitative characteristics that non-custody environments typically provide.

While the majority of surveyed clients reported that they knew all of the rules they would have to follow before and during their time on an electronic monitor, having to follow them all under the threat of awaiting trial can put immense pressure on clients and their support systems.

"I suffered skin damage around my ankle due to it being super tight. Very uncomfortable"
- Survey respondent

CONCLUSION

Electronic monitors are not a real or humane solution to mass incarceration. Instead, the technology reflects and exacerbates existing inequities in the criminal legal system. Like cash bail, electronic monitors are a predatory tax on those who have not been convicted of a crime. Research on earnings lost due to electronic monitor restrictions would help further clarify the financial costs faced by those given this pretrial condition.

Even in jurisdictions where justice-involved people do not pay for their electronic monitors, the social and psychological costs of electronic monitors are immense. The constant surveillance and stringent restrictions suffered by people on pretrial electronic monitors cannot replace real community care and rehabilitative practices.

"[The electronic monitor makes me feel] sad. Like a slave with less things to do in life."
- Survey respondent

ACKNOWLEDGEMENTS

This report would not have been possible without the continuous support and constructive feedback from my supervisor, Ellie Zimmerman, and our Operations Manager, Kianna Ruffman. I would also like to thank The Bail Project's clients for sharing their stories with me. I am grateful for their time, honesty, and trust.

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