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Electronic Monitoring (EM) as a panacea for overcrowding of prisons in South Africa

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Outline

- Introduction
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- Advantages of EM
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Introduction

- Overcrowding not unique to RSA
- Traditional response is to build more prisons
- Limited fiscal recourses
- Alternative strategies
- Development in technology
- Recent adoption of EM by the DCS

Overcrowding

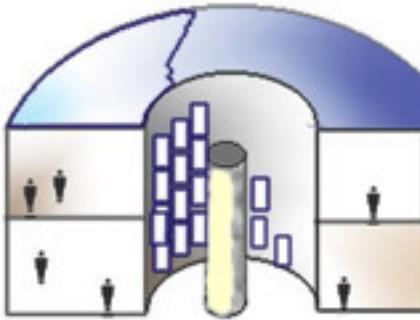
- 2011- 10 million people were incarcerated
- RSA – 310 inmates per 100 000 population

	2007/08	2008/09	2009/10	2010/11	2011/12	2012/13
Percentage of overcrowding in correctional and remand detention facilities per year	37.9%	40.0%	40.4%	34.9%	35.95%	28.7%

- Risks the lives of both the prisoners as wells as the warders
- Possible solutions:
 - Decriminalisation of certain offences
 - De-penalisation of certain offences
 - Elimination of mandatory minimum sentencing
 - Considering pre-trial confinement
 - Amnesty
 - Alternative forms of sentencing (e.g. home detention)

History

- Paul the Apostle (Biblical era)
- Jeremy Bantham (1791) – Panopticon



The All-Seeing Central Tower
Of The Panopticon

- Dr Ralph Schwitzgebel (1960s)
- New Mexico (1983)

Types of monitoring

- **Passive**

- Offender is contacted telephonically (on a landline) occasionally to confirm that they are at a specific location
- Done with or without electronic tagging

- **Active Systems**

- Device is attached to an individual which continually emits a signal
- Authorities are immediately alerted if the offender interferes with the device or strays into a prohibited zone
 - Radio Frequency Technology (RFT)
 - Global Positioning System (GPS) technology
 - Utilised for detention, restriction and surveillance of offenders

Monitoring

Continued.....

- Augments other forms of alternative sentencing
- Utilised both for pre-trial and post trial
- Pre-trial
 - ‘Tagged’ to ensure that individual does not commit further crimes, and adhere to prescribed conditions (curfew)
 - Option to consider for offenders who could not afford bail
- EM is mainly instituted in post-trial phase



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Advantages of EM

Advantages

- Alleviate overcrowding
 - Fewer warders have to be recruited to manage the large number of prisoners
 - Reduces the risk of violence
 - Decline in prison suicides
 - Decreases risk of contracting communicable diseases
 - Less pressure of prison infrastructure (e.g. water, and sanitation)
- Cost-effective
 - More funds required to keep offender incarcerated
- Restricts movement of offenders
 - Prisoners can be confined to only certain places (e.g. home)
 - Interpreted to be more punitive

Advantages

- Enhances rehabilitation
 - Participate in skills programmes and rehabilitation programmes
 - Contribute to community
 - Gainfully employed
 - Maintain relationships with families, children, partners and dependants
 - Live & maintain responsible lives
 - Moderates stigma and psychological effects
 - Removed from corruptible influences
- Reduce crime/recidivism
- Alternative forms of sentencing
 - Augment other programmes
 - Monitor offenders re-integration into society
- Immediate sanction



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Shortcomings of EM

Disadvantages

- **Unconstitutional and illegal**
 - Infringes on a person's basic right
 - Various sections within the constitution affirm the rights of everyone to be treated with dignity
 - Offenders are not coerced. Have to grant consent
- **Negative psychological effects**
 - Constant reminder they are criminals and constantly being monitored
 - Potential employers unwilling to employ individuals who are under such intense observation
 - Undermine rehabilitation and re-integrations initiatives
- **Discriminatory**
 - Unintentional discrimination if no clear guideline and policies

Disadvantages

- Control extends beyond the offender
 - EM imposes obligations on offenders' families and personal support networks
 - Monitoring an offender which is the responsibility of the state
 - Financial costs increases for the offender, their families and the support networks
- Too lenient
 - Too much faith in the EM to deter criminal behaviour
 - Victims may perceive the EM is not sufficient and the offender is getting off lightly
- Maintain contact with prohibited individuals
 - Modern technology (e.g. cell phones) enable offender to remain in contact with prohibited individuals

Disadvantages

- Limited cost-effectiveness
 - Huge costs to set up and maintain the system
 - Systems have to be continually monitored
- Impact on recidivism ambiguous
 - No absolute guarantee that the offender will not commit the same crime or worse
 - Studies on whether EM reduces recidivism is ambiguous and inconclusive
 - No guarantee that the law enforcement will be able to promptly
 - System can only indicate where the offender is or has been
- Technological malfunction of tracking device
 - Equipment may not work all the time
 - Technical faults, poor monitoring coverage and uncomfortable devices
 - Not tamper proof
 - Damage of device results in loss of all information

Disadvantages

- Not fully participate in rehabilitation programme
 - No guarantee that the offender will participate in skills upliftment programme
 - EM restricts contact with people undermining rehabilitation and re-integration
- ‘Widens the net’
 - People are being monitored who would have not normally be monitored if the programme was not in place
 - Incentive to impose EM rather than other more ‘appropriate’ alternative sentences
- Minimal impact on over-crowding
 - EM is at low risk offenders who would have been given alternative sentences
 - Offenders may not be of sufficiently low risk to release into society
 - Danger of classifying the offender of low-risk in order for them to be part of programme

Conclusion

- Acute overcrowding in South African prisons have led the prison authorities to consider EM
- Augments alternative forms of sentencing such as house arrest and has numerous advantages
- Potential pitfalls which need due consideration before total rollout of the system
- Needs to conduct thorough research to ascertain the costs and benefits
 - Not just financial
- Claimed it costs more to incarcerate a prisoner than EM
- But does EM contribute to a reduction in crime so that people in 'South Africa are and feel safe' ?

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