

SAFETY + JUSTICE CHALLENGE
PRETRIAL EQUITY TRANSFORMATION (PET) NETWORK

EVALUATING THE EVIDENCE: **ELECTRONIC & GPS MONITORING**



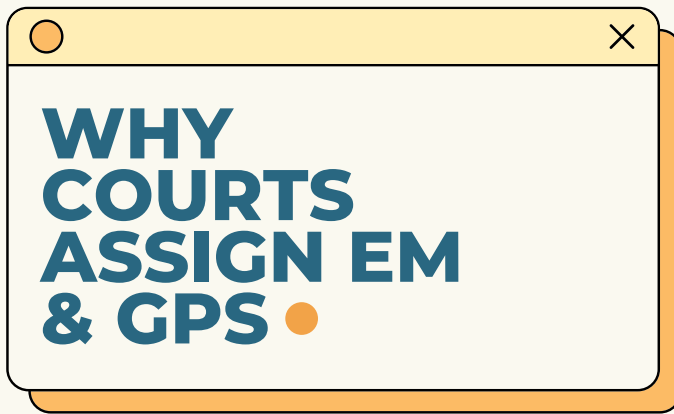
this series

The *Evaluating the Evidence* series highlights key pretrial release supports and conditions: (1) automated court reminder systems; (2) electronic or GPS monitoring; (3) pretrial supervision, and; (4) urinalysis testing.

Each resource will provide key findings from the research about the effectiveness of the strategy to improve court appearance and reduce arrest while on pretrial release.

The resource will also discuss the strategy's impacts on worsening or improving disparities, and offer critical questions to help practitioners take an equity lens to their own pretrial release strategy.





Courts may assign individuals electronic or GPS monitoring for several reasons. First, this may include assigning individuals with victims/protective orders to electronic (EM) or Global Positioning System (GPS) monitoring to allow victims safe areas they can be assure they will not meet the individual, known as exclusion zones. When courts assign individuals to EM/GPS for these reasons the goal is to create a zone of safety for the victim, not necessarily improve court attendance.

Courts also use EM/GPS to lower jail populations while keeping the ability to impose strict limitations on individuals' movement. The presumption is that with strict movement limitations and areas of exclusion, individuals will have fewer opportunities to get in trouble and experience an arrest.

Additionally, courts may place someone on EM/GPS who has a history of consistently missing court. In this instance, the assumption is that if the court knows your location you will be less likely to miss court. Systematic disinvestment across minoritized neighborhoods has left many of these communities without the proper resources to help individuals get to court (i.e., inaccessible or limited: public transit, affordable childcare, jobs with flexible hours). As a result, Black, Latiné, Indigenous, and other minoritized and poor populations tend to miss court at higher rates and, therefore, courts disproportionately place them on EM/GPS because of their earlier absences.

UNCLEAR EVIDENCE IF EM/GPS IMPROVES ATTENDANCE OR REDUCES REARREST

While there may be other important reasons courts may rely on EM/GPS (e.g., enforce protective orders), the research shows mixed results that these devices improve court attendance or reduce rearrest while on pretrial. Importantly, these devices confine individuals to specific neighborhoods and may segregate them from communities with better jobs, resources, and other opportunities. As a result, scholars refer to EM/GPS as e-incarceration or an electronic prison.

THE DIFFERENCE BETWEEN EM & GPS

If the court decides to release a person from detention with conditions, one of the conditions the court can impose is placement on EM or GPS. This requires wearing a device on the ankle or wrist. Both monitoring systems restrict movement and track individuals; however, they do not collect and report the same information to the court.

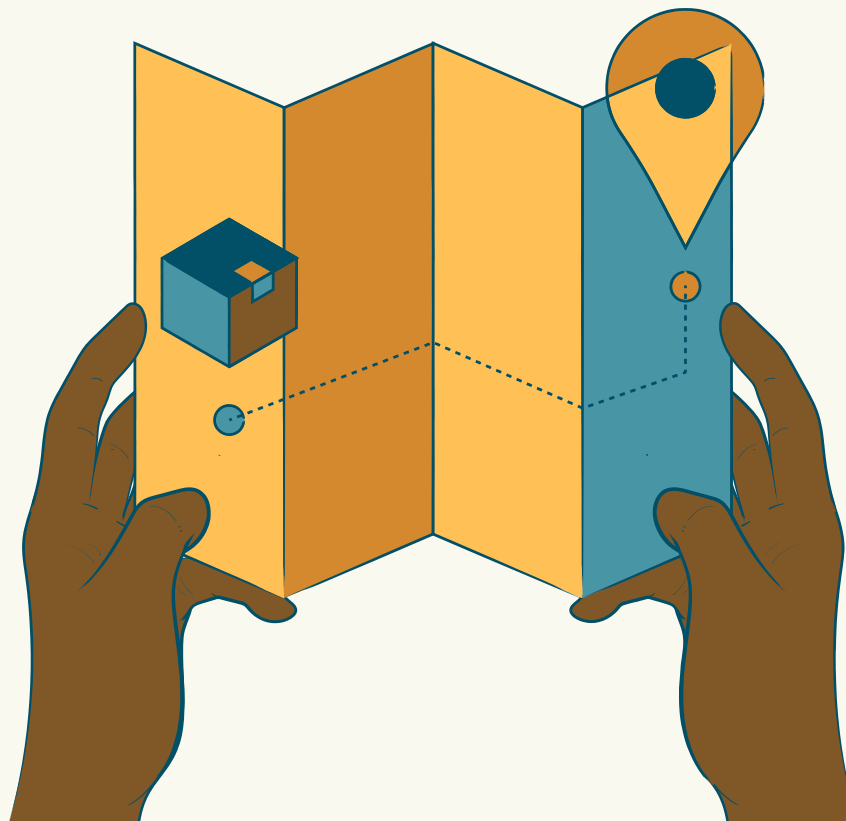


ELECTRONIC MONITORING

Electronic monitoring alerts a representative of the court, typically a pretrial services officer, when a person travels outside a permitted zone, but it does not provide a person's exact location.

GPS MONITORING

GPS monitoring is more intrusive monitoring because it provides real-time tracking of a person's exact location to the court. For example, when a person travels within a restricted zone, it will alert a representative of the court, typically a pretrial services officer.



WHAT DOES THE EVIDENCE SAY?



ELECTRONIC & GPS MONITORING

Electronic Monitoring launched in 1984 mainly for individuals on post-conviction supervision. However, the courts are increasingly using EM and GPS monitoring as a condition of pretrial release in both federal and state systems.

Overall, the **research shows mixed results** and ultimately **researchers are undecided** if EM or GPS improves court appearance or reduces rearrest while on pretrial release. However, the research shows individuals on EM/GPS are **more likely to receive technical violations** and return to jail.

One of the earliest evaluations in 1990 compared people surveilled and not surveilled by EM in Lake County, IL. Individuals on EM were more likely to appear in court as scheduled and less likely to experience an arrest while on pretrial release. However, a 1991 follow up evaluation across 17 jurisdictions found individuals surveilled by EM were more likely to miss court and more likely to experience an arrest.



MORE RECENT RESEARCH



Individuals on EM were **no more or less likely to appear in court** as individuals without EM, but less likely to experience an arrest.



Individuals on EM were **more likely to appear in court** and more likely to experience a technical violation and return to jail.



Individuals on EM were **no more or less likely to appear in court** or experience an arrest while on pretrial release as individuals without EM.

HOW ELECTRONIC MONITORING EXACERBATES INEQUALITY



Electronic and GPS monitoring as a condition of release allows courts to determine what “spaces” and “places” are suitable for a person to move through during the pretrial phase. Effectively placing someone on EM/GPS as a general condition of release can segregate individuals from other neighborhoods where there might be jobs, resources, and other important opportunities. It can also create stigma and reinforce existing biases because family, friends, employers, and the community can see an individual wearing the bracelet. These consequences come to individuals *all without a conviction*. For this reason, many refer to any form of pretrial EM as pretrial e-carceration or an electronic prison.

EXACERBATING EMPLOYMENT INEQUALITY

EM/GPS can restrict a person’s ability to earn income. Individuals on EM/GPS predominately come from historically disinvested communities with limited access to employment opportunities that provide a living wage. Low-wage employment opportunities often come with unpredictable working hours, unplanned overtime, frequent shift changes, and considerable travel time.

These working conditions are often not compatible with EM/GPS supervision. As a result, while ordered to EM/GPS, individuals can experience job loss or challenges securing employment, or they may experience increased technical violations and returns to jail in pursuit of employment during curfew hours or restricted zones.



EXACERBATING HOUSING INEQUALITY

Individuals ordered to EM/GPS can experience housing loss or challenges securing housing. When the court sets an allowable radius for movement on EM/GPS, they require an address to create the radius. If a person does not have stable housing then the court cannot place an individual on EM/GPS. This may lead the court to default to detention. Increased time in detention can create collateral impacts to securing housing once released.

Typically, courts do not allow individuals on EM/GPS to share spaces with other individuals on pretrial release. This may mean placing someone on EM/GPS may displace them from the current living situation or make it more difficult to find sheltered housing or public housing.



EXACERBATING FINANCIAL INEQUALITY

Individuals who consistently miss court are more likely to already be experiencing financial hardship and without the financial means to afford services to help them get to court (e.g., rideshare, private transportation, childcare). Courts tend to put individuals who consistently miss court on EM/GPS which incurs regular monthly fees typically passed onto the individual. Therefore, some of the poorest individuals receive EM/GPS and an added financial burden.

The obligation to pay for EM/GPS can get in the way of paying court and attorney fines and fees and rent or other financial obligations, creating additional financial hardship.

In the most severe cases, failure to pay EM/GPS fees can result in technical violations and returning to jail.



ELECTRONIC & GPS MONITORING AS DELAYED PRETRIAL DETENTION

Research shows mixed results that electronic and GPS monitoring improve court appearance. However, the research clearly shows that these monitoring devices increase technical violations like missing curfew or traveling to unapproved areas. These violations can result in returning to custody for the remainder of an individual's case processing.

If an individual does not return to jail, the court may increase reporting requirements to pretrial officers because of technical violations—effectively forcing individuals to navigate added court obligations. These added obligations can tax already overburdened individuals and create more non-compliance. More non-compliance can result in an individual returning to jail.

One way or another, electronic or GPS monitoring may nearly guarantee an individual returns to jail. In response, courts should not rely on these devices as default conditions of release or in lieu of other reporting requirements. Instead, courts should use EM and GPS purposefully, selectively, and sparingly.



taking an **EQUITY LENS** to **ELECTRONIC & GPS MONITORING**

Courts often use electronic or GPS monitoring for individuals who consistently do not return to court. This means Black, Latiné, and other minoritized groups are more likely to receive these devices. While there may be other important reasons courts may rely on EM/GPS (e.g., enforce protective orders), the research shows mixed results that these devices improve court attendance or reduce arrest while on pretrial. Importantly, these devices confine individuals to specific neighborhoods and may segregate them from neighborhoods with better jobs, resources, and other opportunities. As a result, electronic or GPS monitoring can worsen inequalities.

Given the ways EM/GPS can create more barriers for individuals, particularly Black, Latiné, Indigenous and poor individuals, agencies should assess their own use of these devices. The questions below can help agencies reconsider the scale of their EM/GPS use and reflect on how these devices may contribute to disparate returns to jail.

- How does your jurisdiction determine who receives EM/GPS as a pretrial condition of release? What is the demographic composition of those assigned EM/GPS as a condition of release compared to those not assigned EM/GPS?
- How does prior missed court appearances factor into the decision to place someone on EM/GPS? In what ways are their missed court appearances related to poverty?
- What are the financial costs to individuals ordered to EM/GPS? To what extent does your jurisdiction assess ability to pay costs associated with EM/GPS? How does your jurisdiction respond to the inability to pay?
- How does placing an individual on EM/GPS complicate their ability to secure/maintain employment or housing?
- How does EM/GPS contribute to technical violations and net widening among minoritized populations in your community?







SAFETY+JUSTICE CHALLENGE

Supported by the John D. and Catherine T. MacArthur Foundation

This resource guide was created with support from the John D. and Catherine T. MacArthur Foundation, which seeks to reduce over-incarceration by changing the way America thinks about and uses jails. Core to the Challenge is the need to reduce the over-reliance on jails, with a particular focus on addressing disproportionate impact on low-income individuals and communities of color.

www.SafetyandJusticeChallenge.org