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In the Era of E-Carceration: Criminal Justice Trends and Concerns with Electronic Monitoring

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Abstract

Often considered as an “alternative to incarceration,” electronic monitoring (EM) is widely promoted as a central method of reducing incarceration costs while ensuring public safety. Yet there remain questions regarding the use of EM which require further academic attention. Drawing upon a litany of cross-jurisdictional EM literature, this article identifies ongoing trends and concerns of EM. At present there are growing EM debates pertaining to privatization: the perspectives from offenders, operators, victims, media, and the public about EM, which ultimately progress the debate forward. In Canada the evolution of EM has been relatively slow and intermittent compared to its American and European counterparts; however, we are not immune to the challenges facing the use of EM as a fix to criminal justice system crises. The article concludes with a reflection on EM as *an alternative form of incarceration*; in the era of “E-Carceration” we are witnessing the use of technology to deprive people of their liberty and punish them (Kilgore, 2018). Challenging EM requires us to support humane solutions to human problems, rather than resorting to the answer EM provides.

Introduction

Faced with the problem of prison overcrowding and mass incarceration, many countries continue to consider alternatives to prison sentences. In an effort to establish more rehabilitative-oriented and less punitive sanctions, the electronic monitoring (EM) of offenders has become touted as one of the primary solutions to burgeoning prison populations. Nellis and colleagues (2013, pp. 4–5) define electronic monitoring as “technology [which] must be understood as nothing more or less than a form of remote surveillant

control, a means of flexibly regulating the spatial and temporal schedules of an offender's life." The technology has a chameleon-like character of a multi-use device, and the enhanced capabilities of monitoring offenders' pre-conviction, post-conviction, or post-release (Payne & Gainey, 2004). Generally, the offender has a tag attached to their ankle and is instructed to stay within close proximity to a transceiver installed in the offender's residence. The transceiver continually transmits radio frequency (RF) signals from the tag to a computer at a distant monitoring and control centre, via either the landline telephone system, GPS satellite system, or the mobile phone system (Nellis, Beyens, & Kaminski, 2013). As a relatively new way of controlling (and punishing) offenders in the community, EM has been taken up in varying degrees (either as localized experiments or nationwide schemes) in more than two dozen countries over the last several decades (Nellis et al., 2013).

Drawing upon a litany of cross-jurisdictional EM literature, this article identifies the ongoing trends and concerns of EM. While EM is considered an "alternative to incarceration" in the US and various countries in Europe (Nellis et al., 2013), and few meta-analyses on EM have occurred in the last two decades (see Renzema & Mayo-Wilson, 2005; Belur, Thornton, Tompson, Manning, Sidebottom, & Bowers, 2017), there remain questions in the use of EM which require further academic attention. As this article demonstrates, there are growing EM debates pertaining to privatization; the perspectives from offenders, operators, victims, media, and the public about EM, which ultimately progress the debate forward. The aim is to tour through some of the debates, connecting these discussions back to the Canadian case. In Canada the evolution of EM has been relatively slow and intermittent compared to its American and European counterparts (Wallace-Capretta & Roberts, 2013); however, we are not immune to the challenges facing the use of EM as a fix to criminal justice system crises (for example, see Gacek, 2019; Sparks & Gacek, 2019). The article concludes with a reflection on EM as an alternative form of incarceration; in the era of "E-Carceration" we are witnessing a time "where the home becomes [a] cage" and technology is used to deprive people of their liberty and punish them (Kilgore, 2018, n.p.). Challenging EM requires us to support humane

solutions to human problems, rather than resorting to the answer EM provides.

Tagging Offenders in the True North

EM has only recently been associated with sentencing, as its original emergence and development began as a new technological element of the Canadian correctional system. The original intention of EM in Canada was to enforce house arrest, and gradually it became “a community-based alternative to incarceration” (Bonta, Wallace-Capretta, & Rooney, 1999). EM technology has expanded in Canada without attracting controversy among either criminal justice professionals or the general public, and it has yet to experience some of the heated debates surrounding its use and implementation (Wallace-Capretta & Roberts, 2013). In this respect, Wallace-Capretta and Roberts (2013, pp. 44–45) contend that no single triggering event was responsible for the introduction of this form of offender monitoring in Canada: “[EM] simply emerged as a result of correctional policy transfer from the United States.” The federal nature of the country has meant that EM, where employed across Canada, operates differently between the provinces and territories.

In Canada, the responsibility for criminal justice is shared among the federal, provincial, and territorial governments. The federal government is responsible for the creation of criminal law, while the administration of justice (such as police and court administration) falls within the jurisdiction of the provinces and territories (McDonald, 2015). As a result, this divided criminal justice jurisdiction has impacted the influence of EM insofar as it has not received a nationwide “roll-out” as has been the case in several European countries to date (Wallace-Capretta & Roberts, 2013). This divided authority provides provinces and territories with a reasonable autonomy over managing the needs and goals of their respective criminal justice systems and implementing changes to such criminal justice programs when appropriate or warranted. Therefore, while several provinces in the past have incrementally adopted the EM technology in response to institutional overcrowding, others continue to rely on human verification to ensure compliance with the

conditions of parole or temporary absence from prison (Wallace-Capretta & Roberts, 2013, p. 45; see also McDonald, 2015).

Indeed, EM can be described as a “sleepier issue” within the field of Canadian criminal justice (Wallace-Capretta & Roberts, 2013, p. 45). While some of the Canadian public has become gradually aware that offenders in the country were undergoing EM as part of their post-release program, most Canadians are familiar with the EM concept because of EM’s “widespread exposure to US news media” (Wallace-Capretta & Roberts, 2013, p. 45). Unfortunately, this sleeper issue is a consequence of several facets of EM, such as (1) the limited and sporadic application of EM within Canada; (2) US media coverage of EM influencing the Canadian public’s familiarity with the technology (as mentioned above); and (3) the absence of any high-profile Canadian case in which EM played a role (Wallace-Capretta & Roberts, 2013, p. 45).

In order to examine the effectiveness of EM, the federal correctional system, Correctional Service Canada (CSC), undertook a pilot study of the EM of federal offenders (Hanby, Nelson, & Farrell McDonald, 2018). A total of 294 EM participants who had ever been active on EM were compared to a control group of 294 offenders matched on demographic characteristics (e.g., gender, Indigenous status), offence and risk information (e.g., sex offender status, reintegration potential), and release characteristics (e.g., region of supervision, supervision type, special conditions, residency) (Hanby et al., 2018, p. iii). The findings of this study suggest that EM is being utilized by parole officers “as a discretionary tool to monitor supervision conditions and may contribute to decision making in the area of suspensions but not revocations of release or residency” (Hanby et al., 2018, p. iii). Interestingly, the federal EM pilot is not a mandatory program for offenders, and according to CSC, EM “is not considered an alternative to incarceration” (Hanby et al., 2018, p. 35). As McDonald (2015, p. 22) suggests:

The average annual cost to maintain an offender in a Canadian prison is over \$115,000. In comparison, the cost of maintaining one year of electronic supervision...is approximately \$37,626. If EM were truly

considered an alternative to prison, its comparative cost advantage would surely result in many more offenders sentenced to supervision under GPS and fewer to prison terms. The figures reported by Statistics Canada, however, show that the number of adults in sentenced custody remains stable and the number of adults in remand continues to increase in almost all provinces and territories (Perreault, 2014; Statistics Canada, 2015) clearly indicating that EM is not viewed as a serious, reliable alternative to prison.

However, Hanby and colleagues (2018, p. 35) assert in their CSC study that the technology “appears to have become a reliable way of monitoring compliance with geographical and/or curfew conditions in a way that was not previously available to corrections officials”; it even may assist in offender reintegration and improve public safety. This is interesting to note, given that more than a decade earlier CSC had already previously conducted an Electronic Monitoring Pilot Program (EMPP) in Ontario for federally sentenced offenders and reported inconclusive findings about the rehabilitative impact of EM (see Olotu, Beaupre, & Verbrugge, 2009). Nevertheless, if it is true that CSC no longer views EM as an alternative to incarceration, it begs the question of how this view differs from other jurisdictions like the UK and US where EM is considered both a discretionary tool *and* an alternative to incarceration (Nellis et al., 2013). Perhaps, to view it as an alternative opens the discussion up to further questions, such as whether we should be more concerned about the extension and delegation of the state’s power to punish (Sparks & Gacek, 2019), or more generally, about the underlying culture of control pervading our understandings of the scope of the penal realm (Gacek, 2019; Gacek & Sparks, forthcoming). This may be a conversation CSC is not fully equipped to engage in yet. Nevertheless, avoiding these larger questions about EM leads us away from interrogating the realities of mass supervision in everyday life (McNeill, 2018). Future research across the federal, provincial, and territorial levels will need to further examine the community supervision outcomes of EM participants in more depth (Hanby et al., 2018, p. iii).

In sum, EM has developed in Canada in a rather haphazard fashion, and there has been no national debate about the utility and propriety

of subjecting offenders to this form of surveillance (McDonald, 2015). However, much like the rest of the international community, Canada needs to examine more closely the way EM operates and reconsider the technology's legitimacy and implications upon offenders, victims, and their communities. Canada may be socially, politically, and historically unique, but it is not immune to prominent EM debates currently on the rise internationally. Such debates include the privatization of EM and the perspectives from offenders, operators, victims, media, and the public about EM. As we will see in the following sections, the aims of EM for government, commercial, and civil society interests do not always interpenetrate, and when EM involves the inadequately examined delegation of the state's power to punish, a serious reconsideration of EM must be undertaken.

E-Carceration Inc.: EM and the Private Sector

The question of whether the daily monitoring of offenders should be contracted out to the private sector was and still is a highly contentious and political debate (Paterson, 2013). While such contracts can be different across countries and jurisdictions, in the US and the UK we see the private sector involved in the contracted provision of EM in two ways: technology manufacture and service provision (Nellis et al., 2013). However, some organizations combine both functions. For example, England and Wales, and Scotland have fully fledged private sector providers, contracted for five-year periods (Nellis et al., 2013). State agencies within the US have even tended to buy or loan equipment and do the monitoring themselves. Many of the business areas where EM and commercial criminal justice now flourish are based upon original developments in the US, and have inspired the development of new commercial crime control markets across the globe.

Paterson's (2013, p. 213) research on the development of EM in the context of international developments in private security and penal provision highlights the growth of the "corrections-commercial complex." The corrections-commercial complex is an endlessly recomposing and amorphous ensemble of profit-driven organizations, all of whom are contracted to provide services at various levels of

state administration. Similarly, Kilgore (2017, n.p.) refers to such organizations as “carceral conglomerates,” companies that reach their “investment tentacles into several sectors of the prison-industrial-complex to garner profits from mass incarceration.” Indeed, research conducted by Kilgore and colleagues (2018) suggests that four large private corporations control a majority of the contracts for EM of people on parole across the US. These companies make approximately \$200 million per year just from these contracts, and the corrections-commercial market continues to grow (Kilgore, Sanders, & Hayes, 2018). Carceral conglomerates —GEO Group and Securus Technologies being the best examples —seek to penetrate a range of sectors of the carceral state, not just institutional ownership and management (Kilgore, 2017). As a result, information, resources (financial and otherwise), and influence flow between for-profit companies and organizations on the one hand, and professional and federal agencies on the other. Such a complex typically operates without public scrutiny, and both lobbies for and exercises enormous influence over corrections policy.

By drawing on the growth of commercial markets in the US, Canada, and England and Wales, Paterson (2013, p. 224) argues that the commercial markets in incarceration and social control have been driven by “the dual forces of neoliberal globalization and insecurity.” Despite a lack of conclusive evidence that EM “works” in protecting the public and reducing offending, Paterson (2013, p. 223) indicates that such growth is driven by a fascination with “the potential of new technologies to deliver managerialist solutions to complex social problems.” In effect, he suggests that by sub-contracting service delivery to the commercial sector, “central government is able to expand the crime control system, and...meet the political demand for enhancing security, while also deviating around fiscal restraints” (Paterson, 2013, p. 224). Arguably, this creates new problems for transparency and accountability within a fluid structure where relations between different agencies are both perpetually negotiated and are part of an ongoing political contest. As Sparks and Gacek (2019, p. 390) suggest, with the survival of the private company “dependent on its ability to raise revenue and remain competitive in the correctional market,” not only could this impact the nature of

intervention and delivery of service, but one may question “whether it is ethical to charge fees for those who cannot pay,” and what detrimental effects it may have upon their loved ones and communities. Especially if offenders and pre-trial defendants continue to exist as a consistent source of profit for these carceral conglomerates, one of the most disquieting results of imposing the role of revenue generator on these groups is they have become embroiled in a system which appears to reinforce oppression in distinct ways (Teague, 2016, p. 104, cited in Sparks & Gacek, 2019, p. 390).

Offenders’¹ and Operators’ Perspectives of EM

As Payne and Gainey (2000, p. 96) suggest, punishment is experienced differently by different groups and individuals; EM causes some individuals to be unfairly punished, while others are not necessarily affected by the sanction. Tracing the development of EM programs in the US, the authors contend that research on EM must continue to explore the viability of these programs, and ensure that lines of communication and transparency between researchers, program officials, politicians, and citizens are and remain open (Payne & Gainey, 2000, p. 106). Furthermore, as institutions change, so should the standards and the role EM plays in the criminal justice system; therefore we must be mindful that evaluations of EM programs (regardless of their success) must continue (Payne & Gainey, 2000, p. 106). Finally, such evaluations have the potential to better fit offenders with supportive technologies and ensure a criminal justice system that operates as efficiently, effectively, and as humanely as possible (Payne & Gainey, 2000, p. 107).

Recent research conducted by CSC unpacks operators’ (Hanby & Nelson, 2017) and offenders’ (Hanby & Cociu, 2018) perspectives on EM. While Hanby and Nelson (2017) found that EM is not viewed by

¹ In this article I refer to “offenders” for the sake of convenience. However, I recognize that the term “offender” is contestable, and there are some that take issue with its use (for a discussion, see Brownlee, 2017).

staff to negatively impact the daily lives or relationships of offenders, the findings in Hanby and Cociu's (2018) study were mixed. Specifically, a total of 171 offenders participated in Hanby and Cociu's (2018, n.p.) study, and while "the majority of offenders reported that EM had no impact on their ability to comply with their conditions and programming...substantial proportions of offenders reported that EM did have a positive impact in increasing their ability to abide by geographic/curfew conditions (31%), avoid committing a new offence (18%), and accept responsibilities for their actions (31%)." Moreover, most offenders in Hanby and Cociu's (2018, n.p.) study reported that "EM had either a negative impact or no impact on various aspects of their daily lives and relationships," yet the main areas of concern where EM was reported by offenders to have a negative impact "were in the quality of job they could get (32%) and their ability to find a job (30%), as well as their relationships with their spouse/partner (29%) and friends (28%)."

Jones (2005) examined EM in several areas within England and Wales, indicating that while the rollout of EM was nationwide, there were slight differences in the implementation of EM geographically that influenced the experiences of monitoring officers as they went about their work. Such differences included the densities of populations within the urban areas, the busyness of traffic congestion, the distance for travel to remote or rural communities, the weather conditions, and the number of officers assigned to monitor a particular offender (Jones, 2005). With a similar focus upon England and Wales, Hucklesby (2008) examined the impact of standalone curfew orders imposed upon 78 offenders between April and August of 2005, and how EM factored into offenders' desistance from crime. Hucklesby's (2008) findings suggest that for some offenders, curfew orders reduce offending and contribute to desistance by (1) reducing offenders' links with situations, people, places, and networks correlated with their offending; and (2) by encouraging offenders to (re)connect with influences linked with desistance such as employment and family. Following this, Hucklesby (2009) then analyzed the same data collected to investigate offenders' experiences and attitudes about compliance to EM curfew orders. These findings indicated that the surveillance-based nature of the

curfew orders influenced offenders' decisions to comply, and that subjective perceptions of offenders about EM equipment efficiency played a role in their compliant behaviour. Such findings also take into consideration the consistent use of the (sub-)contracted monitoring company (Hucklesby, 2009; see also Hucklesby, 2011, 2013).

One study of 27 offenders subjected to EM in Belgium found that EM was not simply a "soft" alternative to imprisonment for those who experience it (Vanhaelemeesch, Vander Beken, & Vandeveldel, 2014). The majority of respondents found EM to be both a penalty and a favour, in comparison to the physical confinement and restricted mobility inmates experience while incarcerated. However, there were mixed results in terms of the social life of respondents, as some felt slight changes in their routines and habits with friends and family members, while others experienced significant strain (Vanhaelemeesch et al., 2014). While the EM technology allowed respondents a greater allowance of flexibility to find and hold employment as they abided to their EM conditions, respondents overwhelmingly felt variations of restricted freedom. Such "false" or illusory freedom has been noted in Martin and colleagues' (2009) research as well, as offenders perceive and expect more freedom with EM than they get in actuality, which leads them to think of themselves as prisoners in their own home. The respondents in Vanhaelemeesch and colleagues' (2014, p. 281) research had reported that they felt limited in the use they could make of local space (such as within the immediate space outside of and surrounding the home), and those respondents who needed to rely on public transportation were "mainly tied to a particular geographical area." Other respondents had resented the limitations placed on their own home by the boundaries of EM, as some could not even go into their own garden or into the hallway of their building without triggering the EM receiver alarm installed in their residence. Such limits on freedom, even at the minute level of movement through and around the home or residential property, was one element of EM that made the experience more difficult for the respondents, increasing their temptations to violate EM compliance and transgress the EM boundaries placed on them (Vanhaelemeesch et al., 2014, p. 281).

Victims' Perspectives and Involvement with EM

Victim involvement in the use of EM can take on many forms. However, existing empirical knowledge pertaining to EM is mostly derived from small qualitative studies conducted in the US and in Sweden. While informative and useful, the ability to generalize from these studies' findings is limited. Recognizing these different penal cultures and criminal justice apparatuses, one must be mindful that, in terms of such small studies, there is the influence of bias in who chooses to respond and why. Nevertheless, a theme throughout this research is it becomes difficult for researchers studying victims' perspectives to obtain a representative understanding of victims' experiences with EM, a discussion to which we now turn.

According to Wennerberg and Holmberg (2007; see also Wennerberg, 2013), in Sweden the perspectives of both victims and their advocates seem to have shifted over time, as originally victims' groups expressed opposition to EM reforms due to what they perceived as a lack of understanding of its impact on victims. However, victims' perspectives of EM in Sweden since that time have been shown to be more mixed if not positive (Wennerberg & Holmberg, 2007; Wennerberg, 2013). In Wennerberg and Holmberg's study (2007), the authors conducted interviewed with 39 victims (22 females, 17 males) where the offenders had been placed on EM release. They attempted to obtain victims of violent crimes (ranging from sexual assault to grievous bodily harm and attempted murder) and sexual crimes for the study, in order to reflect the significant proportions of these types of offenders in EM release (Wennerberg & Holmberg, 2007). Given the proportion of participants in the study who had been a victim to a violent and/or sexual crime, a particularly interesting finding was that most victims expressed the view that they did not feel unsafe during the period wherein which the offender underwent EM. In fact, the authors' findings indicated that feelings of safety were increased with the knowledge that the offender was being monitored, and that protocols and alerts would be followed if the offender breached their EM conditions (Wennerberg & Holmberg, 2007). Furthermore, some respondents had believed that EM release was less harmful than

prison. Overall, the majority of the crime victims interviewed for the study showed positive perceptions “[of] the offender serving a sentence at home with electronic tagging” (Wennerberg & Holmberg, 2007, p. 20).

The notion of alerting victims has become increasingly significant with the development of EM technology. Although it is not currently used extensively, increasing numbers of European jurisdictions like Albania, the Republic of Ireland, the Netherlands, and Norway are piloting or incorporating *victim notification* into their EM schemes, as well as *victim involvement* into bilateral electronic monitoring (BEM) (Nellis, 2013). Empirical literature on BEM remains limited, but BEM can be accomplished using RF or GPS technology, or hybridized RF/GPS tags. According to Graham and McIvor (2015), there is currently in Scotland the capacity for victim involvement through imposing “away from” restrictions and exclusion zones which seek to prevent and reduce the chances of a monitored person approaching a specified place, such as a victim’s home or a small or local business. This type of victim involvement is voluntary and requires the victim’s consent, and it is currently used only in a relatively small number of cases (Graham & McIvor, 2015, p. 81). It is important to note that who is notified will depend on the jurisdiction and when, for instance, an alert may first be received by the victim themselves, by probation, by police, or by the EM service provider, or combinations of these people. Describing how this technology works with a standard RF-based arrangement, Nellis and Lilly (2010, p. 362) state that the victim’s home is “equipped with a receiver sensitive to the signal from the offender’s ankle bracelet [personal identification (PID) tag]; if the offender goes near the home, both the victim and the police are alerted.” There are limitations to the RF-based arrangement, as this type of monitoring is limited to knowledge of whether the offender approaches the exclusion zone from which they are restricted. Additionally, such arrangements cannot account for the fact that victims are more likely to spend significant portions of time away from and outside the monitored exclusion zone.

Where GPS EM technology is used, BEM can involve victims carrying or wearing a device on their person, such as a device in their bag or pocket, or being tagged themselves (Graham & McIvor, 2015). In effect, the monitoring is not simply that of a specific place or property, “but tracking the location of the victim themselves in real time” (Graham & McIvor, 2015, p. 81). Indeed, Paterson and Clamp (2014) argue that the advent of BEM is a major shift from EM as an offender-focused approach to surveillance and punishment, to BEM as a victim-centred approach, prioritizing surveillance towards victim monitoring in the interests of their safety and protection. The notification of victims, as well as authorities (usually police) when alerts are generated, expands crime control beyond traditional realms of surveillance (Paterson & Clamp, 2014). However, Erez and Ibarra (2007) found mixed results, which conveyed the tensions and opportunities of BEM, whereas later research conducted by Erez (2009) indicated more positive perspectives about benefits from victim involvement. Erez and Ibarra (2007) conducted interviews with criminal justice professionals (n = 22) who worked with victims, and female victims (n = 30) of domestic abuse involved in BEM. Their findings suggest that numerous victims cumulatively developed a sense of safety over time with the advent of BEM, and described the transformation of their homes from sites of conflict to spaces of refuge and shelter (Erez & Ibarra, 2007). Furthermore, victims stated they were better able to relax and experienced reductions in fear and stress (Erez & Ibarra, 2007, p. 108). Some victims had even reported that they (and their children, if they were parents) felt that they could return to and resume an ordinary lifestyle again (Erez & Ibarra, 2007, p. 110).

When investigating the appropriateness and availability of the technology, it is important to remember that there are uncertainties about the technological functions and application of BEM “which may hinder effective operation at any given time” (Hoffman, 2014, p. 2). Some questions we must ask ourselves include: “[Is] the monitoring device receiving a GPS and cellular signal; is the device charged and working properly; is the victim carrying the device; did the offender approach the victim intentionally or unintentionally; does the victim know the quickest route to safety; [and] can law

enforcement arrive in time?” (Hoffman, 2014, p. 2). As Hoffman (2014, p. 2) contends, all functions with the BEM system “must operate flawlessly” and must be seamlessly coordinated with the victim’s notification program and law enforcement’s response “to enhance the victim’s safety.” In effect, Hoffman (2014) has argued that there is promise in both BEM and victim notification programs, so long as we understand the limitations and constraints of the EM technology.

Media and Public Opinion on EM

Internationally, there is limited research on public attitudes toward and media representations of EM (Graham & McIvor, 2015). In his study which documented and analyzed media coverage of EM bail pilots, Nellis (2007) argued that media discourses on EM in Scotland have been negative and skeptical. Such discourses have focused on the leniency of tagging offenders and the risk posed to the public through individuals charged with serious offences subjected to EM, while the “success stories” of EM have been avoided (Nellis, 2007). Media representations in England and Wales appear to have mixed findings, though overall there are still more negative media representations than positive in their orientation (Graham & McIvor, 2015). Such a mixture of results could be partly attributed to the introduction and expansion of EM in England and Wales, which was originally characterized by limited media attention and debate (Nellis, 2003).

Scandinavian countries such as Sweden and Norway have had significantly different experiences with media. For instance, Wennerberg (2013) argues that Swedish media tend to be relatively positive towards EM, despite some initial concerns by some media commentators that EM was not sufficiently punitive, would result in a mechanistic approach to offender supervision in the community, and was only suitable for people in relatively stable social circumstances. Per Wennerberg (2013), positive media depictions of EM were facilitated in part by a proactive and clearly defined media strategy by the Swedish probation service, by the gradual introduction and evaluation of EM with different target groups prior

to a national EM rollout and implementation, and by the absence of serious and high-profile incidents involving monitored people. Similarly, in Norway the majority of media representation of EM has been described as positive, following close liaison between media broadcasters and the Norwegian government both before and during the implementation of Norway's EM pilot (Kylstad Øster & Rokkan, 2012). In light of the initial opposition by political parties in Norway, the positive reception of EM by the media and the public has been viewed as remarkable, despite the fact that the original decision to initiate the EM pilot in Norway was described as “controversial” (Kylstad Øster & Rokkan, 2012, p. 90).

European and American research has attempted to explore public attitudes towards EM; however, these studies have tended to use samples of students (usually from discipline(s) of, or related to, criminal justice), which means that the studies' wider generalizability is unclear (Graham & McIvor, 2015). Research from the US has indicated that public attitudes regarding EM may vary per demographic characteristics of respondents like gender or ethnicity. For example, Payne and colleagues' (2009) study suggests that respondents from non-white minorities held more negative than positive views of EM. Such variances in demography, they argued, could reflect perceived inequalities in the use of EM with different ethnic and/or racial groups (Payne, DeMichele, & Okafo, 2009). Indeed, race and EM remains a pressing concern, particularly in the US, and future research must question whether the Canadian case is similar in this regard. Such a concern exists especially for groups that are not only oppressed by racism and poverty but are “people on ankle shackles trying to deal with mental illness” (Kilgore, 2018, n.p.). As Alexander (2018, n.p.) rightly suggests, EM is not an alternative to incarceration but rather a dangerous sequel to mass incarceration the same way that Jim Crow was a dangerous sequel to slavery:

If you asked slaves if they would rather live with their families and raise their own children, albeit subject to “whites only signs,” legal discrimination and Jim Crow segregation, they'd almost certainly say: I'll take Jim Crow. By the same token, if you ask prisoners

whether they'd rather live with their families and raise their children, albeit with nearly constant digital surveillance and monitoring, they'd almost certainly say: I'll take the electronic monitor. I would too. But hopefully we can now see that Jim Crow was a less restrictive form of racial and social control, not a real alternative to racial caste systems. Similarly, if the goal is to end mass incarceration and mass criminalization, digital prisons are not an answer. They're just another way of posing the question.

In effect, we see how different jurisdictions incorporate media into public attitudes toward EM. Graham and McIvor (2015) argue that there is some (albeit limited) evidence which suggests that public opinions about EM can develop and change in association with the provision of educational information. However, it remains unclear "how much and what types of information...would [be required] in light of negative media depictions of EM" for meaningful changes in attitudes towards EM to be achieved (Graham & McIvor, 2015, p. 85).

Discussion and Concluding Thoughts

This paper was an attempt to galvanize attention towards the ongoing trends and concerns of EM in criminal justice, with the goal of applying these debates to existing knowledge of the Canadian case. The technologies used in EM continue to develop, and next generation "tagging" will likely (if not certainly) feature new capabilities (Jones, 2013, p. 475), especially if, as indicated above, victim involvement is to play a significant role in EM technology developments. As we have seen, for some, EM may appear as a progressive alternative to older forms of punishment. Yet for others, such as already marginalized and racialized offenders, the surveillant and controlling qualities of EM remain deeply troubling, and will have highly negative effects upon them, their loved ones, and their communities at large (for examples see Button, DeMichele, & Payne, 2009; Payne et al., 2009; Jones, 2013; Kilgore, 2017, 2018; Sparks & Gacek, 2019). As Kilgore and colleagues (2018, p. 13) conclude in their report on EM in the US:

EM has grave implications for the future in two ways. First, the spread of EM lays the groundwork for a new form of mass incarceration: locking people up in their homes and communities. As the capacity of devices increases, the possibility of more precisely and comprehensively restricting people’s movement looms. Beyond house arrest, we could see a form of E-Gentrification with exclusion zones programmed into devices and areas of movement restricted according to demographics, income, criminal background, citizenship status, etc.

It remains difficult to discern whether EM, supplementing the growth and prominence of algorithmic risk assessment tools in criminal justice, will ever recede. It also seems probable that confluent interests from the commercial, governmental, and civil society sectors will, in the absence of robust interrogation, continue to extend the scope of penal supervision in the lives and communities of already marginalized people (Gacek & Sparks, forthcoming). The penal arm of the state is chronically overburdened, and apt to seek to generate additional capacity through innovative extensions, technologies, and socio-technical assemblages (Sparks & Gacek, 2019); put differently, the state seeks a fix, and EM provides a solution.

EM is more than a handy technology able to increase diversion and to decrease incarceration rates and costs; it is assisting in remaking conceptions of citizenship (Gottschalk, 2014, p. 290, cited in Gacek & Sparks, forthcoming). The interests of carceral conglomerates continue to dominate discussions of EM, extending their “carceral campaigns” (Gacek & Sparks, forthcoming) beyond the prison and into community life. EM widens a net that is becoming ever more diffuse (for one of the earliest examinations of EM in Canada suggesting this, see Bonta, Wallace-Capretta, & Rooney, 2000; see also Gacek & Sparks, forthcoming). It is creating an ever-growing group of outcasts within our society, making it difficult for them to gain meaningful employment and maintain positive relationships (Hanby & Cociu, 2018; Gacek, 2019). In sum, whether EM was considered a “community-based alternative to incarceration” (Bonta et al., 1999) or no longer “an alternative to incarceration” (Hanby et

al., 2018, p. 35), this article demonstrates a more theoretical and contextualized understanding of EM as an *alternative form of incarceration* is a warranted and timely endeavour (see also Kilgore, 2018).

As Hayes (2018a, n.p.) contends, regardless of our goals for pushing progressive criminal justice reform, we must “continue to be critical of solutions we consider to be alternatives to incarceration” (see also Alexander, 2018; Kilgore, 2018). The complex issues marginalized groups experience are exacerbated when we neglect the worrisome effects of EM. Indeed, despite evidence that offenders and their families might be favourably disposed to EM, efforts to “disentangle the idea of EM as a potentially usual supervision tool from its delivery by a despised profit-seeking provider” have not been achieved (Nellis, 2016, p. 119), and Canada is not immune to these types of discussions or concerns. While we live in a political moment where the demand to decarcerate is ushering in a new wave of criminal justice reforms, “if we ignore how electronic monitors create digital prisons...we run the risk of replicating the same forms of punishment” (Hayes, 2018b, n.p.). As Kilgore and colleagues (2018, p. 14) remind us:

When people have done their time, they should be set free. Instead of using technology to further restrain and punish people released from prison, authorities should be mobilizing technology to provide employment, education, training and other opportunities to get individuals moving down the path away from prisons and jails and toward contributing to the development of their community. This imperative is particularly crucial in the communities of color that have been hardest hit by mass criminalization and mass incarceration. It is time to challenge E-Carceration and build genuine alternatives to the prison industrial complex that put resources into communities, not punitive surveillance technology.

Bluntly and subtly, EM leaches into the everyday spaces and places of life for impoverished, marginalized groups and communities alike; in the era of E-Carceration, such social awareness is too essential to evade any further.

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