# SOCIOECONOMIC ANALYSIS OF ELECTRONIC MONITORING IN THE OFFENDER MANAGEMENT SYSTEM OF THE DEPARTMENT OF CORRECTIONAL SERVICES, SOUTH AFRICA

## A TECHNICAL RESEARCH REPORT

Submitted to

THE COUNCIL FOR SCIENTIFIC AND INDUSTRIAL RESEARCH (CSIR)
AND
THE DEPARTMENT OF CORRECTIONAL SERVICES (DCS)


Submitted by
Peace and Sustainable Security (PaSS) Programme
Developmental, Capable, Ethical State (DCES) Division
Human Sciences Research Council (HSRC)
Private Bag X41
Pretoria, 0001
REPUBLIC OF SOUTH AFRICA

Contact

| Prof Sylvester Bongani Maphosa | Dr Tlou Millicent Ramoroka | Dr Thanyani Madzivhandila | Prof Charles Hongoro |
|---|---|---|---|
| +27 66 073 2255<br>SMaphosa@hsrc.ac.za | +27 82 043 3715<br>TRamoroka@hsrc.ac.za | +27 73 522 6776<br>TMadzivhandila@hsrc.ac.za | +27 66 006 5123<br>CHongoro@hsrc.ac.za |



**Date:** September 2022

## Sign off Sheet

| Name | Representing | Email | Signed | Date |
|---|---|---|---|---|
| Dr Thanyani Madzivhandila | HSRC, Research Director PaSS - DCES | TMadzivhandila@hsrc.ac.za | Thanyani Madzivhandila (Sep 28, 2022 16:31 GMT+2) | 28/09/2022 |
| Prof Charles Hongoro | HSRC, Strategic Lead DCES | CHongoro@hsrc.ac.za | charles Hongoro charles Hongoro (Sep 28, 2022 18:39 GMT+2) | 28/09/2022 |
| Prof Narnia Bohler-Muller | HSRC, Divisional Executive DCES | NBohlerMuller@hsrc.ac.za | Narnia Bohler-Muller (Sep 28, 2022 19:34 GMT+2) | 28/09/2022 |
| John Isaac | Research Group Leader: Advanced Internet of Things | SIsaac@csir.co.za | John Isaac John Isaac (Sep 29, 2022 20:51 GMT+2) | 29/09/2022 |
| Adnan Abu Mahfouz | Centre Manager: Emerging Digital Technologies for the Fourth Industrial Revolution | AAbuMahfouz@csir.co.za | Prof Adnan Abu-Mahfouz Prof Adnan Abu-Mahfouz (Sep 29, 2022 21:01 GMT+2) | 29/09/2022 |
| Zintle Gawula | Deputy Director: Project Management | Zintle.gawula@dcs.gov.za | | 03/10/2022 |
| Rhulani Mgiba | Director: Project Management | Rhulani.Mgiba@dcs.gov.za | | |
| Jonas Mekgwe | Acting CDC GITO | Jonas.mekgwe@dcs.gov.za | | |

| | |
|---|---|
| **Collaborating Partners** | Department of Correctional Services (DCS), Council for Scientific and Industrial Research (CSIR) and Human Sciences Research Council (HSRC) |
| **Confidentiality Status** | Non-Disclosure Agreement (NDA) signed |

## Research Team

| Name | Role |
|---|---|
| Prof Narnia Bohler-Muller | Divisional Executive |
| Prof Sylvester Bongani Maphosa | Principal Investigator (PI) |
| Dr Tlou Millicent Ramoroka | Principal Investigator (PI) |
| Prof Charles Hongoro | Strategic Lead |
| Dr Thanyani Madzivhandila | Research Director |
| Dr Neo Mohlabane | Researcher |
| Dr Moremi Nkosi | Researcher |
| Adv Gary Pienaar | Researcher |
| Ms Namhla Ngqwala | Intern |
| Ms Tanja Gordon | Intern |
| Ms Noncedo Maphosho | Intern |
| Ms Busisiwe Mamba | Project Administrator |
| Ms Melissa Walters | Finance Manager |
| Ms Koshen Govender | Divisional Manager |

# SOCIOECONOMIC ANALYSIS OF ELECTRONIC MONITORING IN THE OFFENDER MANAGEMENT SYSTEM OF THE DEPARTMENT OF CORRECTIONAL SERVICES, SOUTH AFRICA

This report was compiled and produced for the Council for Scientific and Industrial Research (CSIR) and the Department of Correctional Services (DCS) by Peace and Sustainable Security (PaSS) programme in Developmental Capable Ethical States (DCES) division, of the Human Sciences Research Council (HSRC) of South Africa.


## Authors

Sylvester Bongani Maphosa, Tlou Millicent Ramoroka, Gary Pienaar, Neo Mohlabane, Moremi Nkosi, Tanja Gordon, Namhla Ngqwala & Noncedo Maphosho



## Acknowledgement

This study was carried out with funding from the Department of Correctional Services (DCS) through the Council for Scientific and Industrial Research (CSIR) and Human Sciences Research Council (HSRC) bilateral project specific agreement (PSA). The authors extend their gratitude to all participants who provided invaluable information during field data collection. The research team is also grateful to PaSS programme and DCES division, the Impact Centre Strategic Partnerships Unit, and the HSRC Executive for their support in this research.





## Recommended Citation

Maphosa, S.B; Ramoroka, T; Pienaar, G; Mohlabane, N; Nkosi, M; Gordon, T; Ngqwala, N. & Maphosho, N. (2022) *Socioeconomic Analysis of Electronic Monitoring in the Offender Management System of the Department of Correctional Services, South Africa. A Technical Research Report* developed for the Council for Scientific and Industrial Research (CSIR) and the Department of Correctional Services (DCS).

## EXECUTIVE SUMMARY

The aim of this research was to explore the social and economic elements that should be considered in planning electronic monitoring (EM) to monitor offenders on community supervision in the Department of Correctional Services (DCS), South Africa. This study is designed to yield data to spur the development of a local EM solution by the Council for Scientific and Industrial Research (CSIR) and to also make recommendations for successfully implementing EM to promote safe detention and rehabilitation that are consistent with maintaining the human dignity of inmates, personnel and the public, and to do so in a cost-effective manner.

The growing number of sentenced and un-sentenced offenders in detention presents serious issues of overcrowding in correctional centres in the country. Thus, the occupancy level in South Africa's prisons is at 137.4% of official capacity (WPB, 2019). While numbers have stabilized over the past five years, overcrowding impacts on the quality of nutrition, sanitation, prisoner activities and programmes, health services, and the care for vulnerable groups. It affects the physical and mental well-being of all prisoners, generates prisoner tension and violence, exacerbates mental health and physical problems and creates immense management challenges. Overcrowded facilities are not only uncomfortable but also harsh, and numerous released inmates bear the consequences of their experiences long after their discharge. As such, overcrowding is a driving cause of the ineffectiveness of rehabilitation of offenders and recidivism which impacts on prison staff, the economy, public health and social cohesion of communities.

The secondary data of previous research on global experiences with EM and primary data on perceptions of the EM pilot in South Africa provided unique data for this report about implementing EM in the DCS. The main purpose of the study was to contribute towards an integrated understanding of EM technology in a way that will offer directions for implementing the initiative in an effective and sustainable way. The study's research approach was effective, efficient, humane, and ethical, and offered the potential to revolutionize the criminal justice system and offender management in South Africa.

From the target DCS regions, 50% of the regions were sampled, using the inmate population according to occupancy level ratios as at 31 October 2021 as a key criterion for selection. The number of centres ranging from 100% to 150% occupancy level were identified and selected with three most overcrowded regions including KwaZulu-Natal (KZN) 27%, Limpopo/Mpumalanga/North West (LMN) 20%, and Gauteng (GA) 14%, respectively. Across the three sampled regions, 59 key informant interviews (KIIs)

were successfully conducted with the majority of the participants located in the Kwa-Zulu Natal region. Various management areas within the selected regions were visited based on their occupancy level, wherein the most crowded centres were identified and visited.

The analysis reported here suggests that there is a narrow boundary between EM as blessing and risk for the communities involved. While digital technologies including use of EM in community supervision can represent a highly-effective alternative for reducing crime and protecting society, EM may be underutilized due to cynicism established from most DCS officials interviewed about the scale of envisaged EM.

The Correctional Services Act (CSA) Regulation 28 'Monitoring' in the Correctional Services Regulations (CSR)[1] is implicitly in favour or support of EM by focusing on their characteristics and impact by providing that – *'(1) Electronic monitoring devices must be compact, un-obstructive and allow persons under community corrections as far as possible to carry out their normal daily activities; (2) The electronic monitoring device must be fitted to the ankle or wrist without causing a risk to the person's health; (3) Electronic monitoring equipment may be installed in the residence and workplace of the person under community corrections or the victim'* – (see pages 37, 77, 79). However, it would be helpful if the CSA was itself amended to make explicit provision for EM as well as consider the scope of application of the Protection of Personal Information Act 4 of 2013 (POPIA) and its impact if any, on the EM programme (see pages 89-94). The conditions applicable to processing personal information are contained in Chapter 3 of POPIA. Section 1 of POPIA defines a 'unique identifier' as 'any identifier that is assigned to a data subject and is used by a responsible party for the purposes of the operations of that responsible party and that uniquely identifies that data subject in relation to that responsible party'. In the current context, such an identifier could be a prison number, for example, or an identity number. Section 1 of POPIA further defines a 'data subject' as 'the person to whom personal information relates'. In the current context, that could be a reference to an offender participating in the EM programme. The definition of 'processing' in Section 1 of POPIA includes 'collection' and 'transmission' of personal information, whether or not automated, which is what EM bracelets / tags seem likely to do.

[1] Government Notice No. R. 323 in *Government Gazette* No. 35277 25 April 2012. Available at: https://www.gov.za/sites/default/files/gcis_document/201409/35277rg9739gon323.pdf.

For some respondents, the fact that EM does not address unemployment and poverty, and does not add 'boots on the ground' (i.e., more enforcement officials), indicates that it does not fit into existing paradigms about offending behaviours in South Africa. It fails to fit into theories that crime is a problem of weak enforcement, a problem of inter-personal psychology, or a problem of poverty and unemployment. EM and community incarceration represent a completely different view about why crime exists and what works to mitigate crime. However, if this latter view is correct, it may be possible to deter much of the crime that is committed by repeat offenders, while also protecting society, and to achieve this result through the use of technology that is cost-effective and well-understood. Hence, setting up proper measures to protect the community, targeted communications to educate and inform corrections and parole officials and communities, and support by professionals for community members might help to mitigate the risks and support the benefits of implementing EM, such as social and economic inclusion of offenders, maintaining family and community ties, reducing recidivism and overcrowding in facilities.

To support the acceptance of EM and successful implementation the report recommends:

**Appropriate sustainable technology:** The DCS should select technology it will use to advance its needs to enhance reintegration, reduce congestion and spending. It is the people using the electronic tools, not the tools themselves that will accomplish the goals of community corrections and the purpose of the EM initiative. Indeed, to reiterate an important point made in this report - electronic supervision tools are just that, i.e., tools. In and of themselves they will accomplish little. In the hands of capable prison officers and supporting stakeholders they will leverage invaluable dexterity for managing offenders. No technology is without drawbacks; all technologies can be thwarted. Therefore, the DCS should select the technology it will use with care and awareness of both its pros and cons.

**Knowledge sharing and awareness**: There is an urgent need for an information package through research, education, and training aimed at increasing awareness of the existing provision of EM, enhancing implementation of EM where required, and identifying and leveraging opportunities for enhanced integration with other services that support desistance and enhance public protection. In addition to increasing understanding, the pilot of the new device will need to be considered across 50% of the DCS regions over a period of not less than

6-12 months to identify practical dynamics of location monitoring, including their implications for police responses and for social work services.

**Integrated approach:** EM will be effective when integrated with the use of other supervision and support measures. In international experience, moderately strong consensus asserts the need for EM to be used in tandem with more rehabilitation-focused supervision and re-integrative support options (formal or informal) that reduce recidivism and maximise opportunities for compliance. Without complementary supervision and support, the impact of EM as a stand-alone initiative may be impeded and circumscribed.

**Effective communication:** Integrating information-sharing will offer the DCS a greater capability to cascade collaboration across the security cluster and to discover patterns and interactions, to make better informed decisions based on more complete understanding and to spur increased dividends in offender management. Communication will stimulate ownership of the initiatives across all levels of operations and harness the national vision of a safer South Africa.

**Whole-of-society approach:** in which the DCS will leverage theories of change that relate to both the community corrections and human security development components, and explicitly make links with multi-sectoral stakeholder participation. It should embrace mutual partnerships and networks with national and local communities affected by crime. The DCS is encouraged to bring together civil society, academia, media, private sector, NGOs, families, and individuals to strengthen the resilience of corrections and society as a whole. There is a serious need therefore to establish EM steering groups comprising both internal community corrections stakeholders directly involved with community supervision and rehabilitation, and external stakeholder, with engagement championed by the DCS in order to pool resources and direct them towards a whole-of-society multi-level EM approach.

**Robust management of EM:** The EM of offenders' programme can assist in modernising community supervision and so it needs creativity to articulate that vision and translate "offender management" into practice. Monitoring officers have a direct impact on the integrity and efficiency of EM to avoid false expectations of safety through automated processes alone. If EM is integrated into broader supervision strategies, EM restrictions can disrupt offending patterns, strengthen active community support for consequences, including punishment, for

offending behaviour, and support reintegration of offenders into society. While EM encourages offenders to desist from crime, irresponsible use of EM can raise ethical aspects. If EM operates without the necessary support systems and processes, including from officials who understand and support the objectives of the EM programme and its role in a comprehensive approach to offender management, the offender may find it harsh and offensive and return to crime.

**One size does not fit all:** The consciously and deliberately tailored use of EM to the diversity and vulnerability of offenders will be more likely to make a positive impact. The potential positive impact of EM and generalised claims of effectiveness are significantly diminished in cases where it is used without due regard for diversity and vulnerability. Understanding and capabilities are ingredients for adaptive resilience to sustain EM; with strengthened communication among and between internal and external stakeholders, EM must be nurtured within an integrated 'whole-of-society' approach that consists of context-specific actions and is not a one size fits all enterprise.

## ABBREVIATIONS

| | |
|---|---|
| APP | Annual Performance Plan |
| ATDs | Awaiting-Trial Detainees |
| CCTV | Closed-Circuit Television |
| CJS | Criminal Justice System |
| CMC | Case Management Committees |
| CPA | Criminal Procedure Act 51 of 1977 |
| CSA | Correctional Services Act 111 of 1998 |
| CSIR | Council for Scientific and Industrial Research |
| CSPB | Correctional Supervision and Parole Board |
| CSR | Correctional Services Regulations |
| DCES | Developmental Capable Ethical States |
| DCS | Department of Correctional Services |
| DoJ&CD | Department of Justice and Constitutional Development |
| DPME | Department of Planning, Monitoring and Evaluation |
| DSD | Department of Social Development |
| EM | Electronic Monitoring |
| EMPP | Electronic Monitoring Pilot Project |
| EMS | Electronic Monitoring System |
| GBV | Gender-Based Violence |
| GPS | Global Positioning Systems |
| GSM | Global System for Mobile communications |
| HSRC | Human Sciences Research Council |
| ICJS | Integrated Criminal Justice Strategy |
| ICT | Information and Communication Technology |
| IJS | Integrated Justice System |
| JICS | Judicial Inspectorate of Correctional Services |
| JCPS | Justice, Crime Prevention and Security |
| MTSF | Medium-Term Strategic Framework |
| NPA | National Prosecuting Authority |
| PaSS | Peace and Sustainable Security |
| PC | Portfolio Committee |
| PC JCS | Portfolio Committee on Justice and Correctional Services |
| PIDs | Personal Identification Devices |
| PSA | Project Specific Agreement |
| PTDs | Personal Tracking Devices |
| RC | Regional Commissioner |
| RDs | Remand Detainees |
| RF | Radio Frequency |
| SAPS | South African Police Services |
| STOs | Short Term Offenders |
| ToR | Terms of Reference |
| UNODC | United Nations Office on Drugs and Crime |
| 4IR | Fourth Industrial Revolution |

## LIST OF TABLES

## LIST OF FIGURES

TABLE OF CONTENTS

# Contents

# CHAPTER 1: INTRODUCTION AND OVERVIEW

## 1.1. Background

The objective of this research was to evaluate the social and economic factors that should be considered in contemplating electronic monitoring (EM) in the Department of Correctional Services (DCS) in South Africa to monitor offenders on community supervision. This work is designed to yield data to spur the development of an EM solution and also make recommendations on the processes and necessary decisions for successful implementation of an EM initiative to achieve the goals of community corrections in South Africa 'to reduce the cost of keeping offenders in prison and ease overcrowding in the country's jails, improve monitoring of offenders being integrated back into society and ultimately save tax payers' money' (ToR CSIR_HSRC_EM_RESEARCH).

The overarching aim will contribute toward a nuanced policy assessment of EM, while presenting directions for future engagement with digital technologies to support the DCS to contribute to the objective of maintaining and 'promoting a just, peaceful and safe society by correcting offending behaviour in a safe, secure and humane environment to ensure the optimal rehabilitation of offenders and reduce repeat offending' (DCS, Annual Performance Plan 2020/21).

## 1.2. Problem statement

The use of digital technologies including EM in managing offenders is a promising alternative to custodial sentences, although it is sometimes regarded as a controversial criminal justice measure. EM refers to a device being attached to an offender's ankle or wrist to track their whereabouts. EM has been used extensively across Europe, the Americas and Australia (Geogeghan, 2011; Whitehead et al., 2013; Hucklesby & Holdsworth, 2016) variously as a condition for bail; as part of a community sentence or suspended curfew sentence orders; or to allow for the early release of prisoners (Hucklesby, 2008). The proposed aims of EM are many and varied, from reductions in time in custody, thereby allowing governments to reduce costs by providing cheaper alternatives to prison (Garland, 2002; Hucklesby & Holdsworth, 2016), to lowering recidivism through increased deterrence and through providing greater structure to offenders' lives (Hucklesby & Holdsworth, 2016). Other proposed functions of EM include reducing recidivism through increased deterrence and acting as a rehabilitative tool by providing a structure to offenders' lives and the opportunity to work (Hucklesby & Holdsworth, 2016).

EM in South Africa is not currently being used, although it has been on the horizon since 2008 despite the relatively thin research on its use and impact. However, it was piloted in March 2012, introduced to assist in mitigating the risk posed by the release of the so called 'Van Vuuren Lifers'. At the time, the DCS decided to place the lifers on EM for a period of twelve (12) months, with the intention to mount it as a permanent solution. It was piloted with an initial cohort of 288 offenders, and, rolled out in July 2014 with 511 offenders targeted across all categories eligible for parole; and by 2015 it is estimated that more than 748 offenders were 'tagged' with EM devices. The programme was cut-short in July 2015 with key issues and challenges of ethical, legal, political, and social questions emerging from implementation, including that:

- There was **insufficient socioeconomic impact analysis** conducted prior to the piloting of the previous EM project. Furthermore, outcomes and recommendations from benchmark exercises with different countries were not considered during the piloting and implementation phases. Legal and policy aspects were insufficiently considered.
- The project was **insufficiently resourced** with relevant skills and expertise to implement a project of that scale. Typical correctional services officials who were involved in the pilot were unprepared for the technological complexity of the EM solution. There was insufficient training at the operational and the policy development level. Only a few officials were trained on system operations. This compromised the system and posed a threat to the offenders and the public.
- **Stakeholders.** Even though the focus was supposed to be on change management and stakeholder engagement, the project lacked support from the national head office to regional and management levels. Different stakeholders had misunderstandings and hesitations regarding their involvement and did not buy-in to the EM programme in some cases or provide adequate support for the EM programme in other cases. The stakeholders who had issues included: South African Police Service – SAPS (hesitant to open charges), National Prosecuting Authority – NPA (reluctant to endorse EM), Independent Communications Authority of South Africa – ICASA (electronics equipment and interference), Department of Health – DoH (health impact of equipment), South African Bureau of Standards – SABS (certification of EM equipment, norms and standards), State IT Agency – SITA (hosting environment), ESKOM (load-shedding of EM Control Centre), PSIRRA (security, vetting), and employers of EM parolees (victimization).
- **Support infrastructure and mechanisms.** The IT infrastructure support for EM was insufficient. Some administration was done manually as the Community Corrections systems

were not fully interfaced with EM systems and the control room for accessibility of data. There were inadequate tools and access of stock to the internet. Apart from IT infrastructure, the EM project lacked sufficient vehicles and staff for rapid response to alerts. There were issues with the communication strategy and plan (resulting in excessive negative media interference), procurement and implementation plan, business architecture and operating model, functioning and management (as well as operational matters) within the control room, backup and business continuity functions, audit procedures, maintenance of devices, and quality checking of devices. Physical monitoring during EM system downtime did not happen due to a shortage of resources. More offenders were approved for inclusion in the programme than were initially planned, leading to overwhelmed capacity.

- **Service provider issues:** Costing and invoicing of "out-of-scope" services, services that were not rendered, timeframe being extended and legal suits by the service provider against the DCS.

### 1.3. Significance

Based on the terms of reference (ToR) CSIR_HSRC_EM_RESEARCH, the specific motivation of the current research was to conduct a comprehensive socioeconomic analysis of EM covering legislative operational, sociological and financial perspectives.

The purpose of the study was to identify and evaluate critically the impacts associated with implementing EM based on foreign experience and local experience during the Electronic Monitoring Pilot Project (EMPP) from 2012-2015, and compare these findings with the original research insights from interviews with key informant stakeholders.

### 1.4. Research questions

To address the ToR and purpose of exploration, this research considered a series of questions concentrated on seven (7) key probes including:

- What would be the uses, purposes and impact of EM in South Africa?
- What EM technologies and procedures would be effective in South Africa?
- Are there legal safeguards protecting the human rights of the offender under EM?
- Will EM contribute successfully to a reduction of the prison population?
- Will EM enable the offence-related needs of the offender to be met?
- Will EM be a cost-effective tool for social reintegration of offenders?

- Will EM contribute to the reduction of crime in the community?

### 1.5. Research objectives

The research objectives of this study were as follows:

1. To consider EM as an alternative option when considering sentencing or granting bail applications, etc., suggesting possible amendments to legislation and/or policymaking.
2. The feasibility of EM and its effective implementation and benefit realization in South Africa from a human factors and organisational perspective. This would include an analysis of the state and non-state stakeholders that need to cooperate for EM to be a success, as well as the chain of command within this jurisdiction, special inter-organisational set-up mechanisms that will be created and bureaucratic protocols within these stakeholders to respond and monitor situations regarding EM, as well as community engagement and other social aspects to be considered.
3. The sociological aspects of the use of technology to reintegrate citizens into society, possibly between offenders and their respective communities, families and/or victims (e.g. victim protection, family violence, work productivity devices).
4. Financial perspective, considering the socio-economic considerations of implementing EM versus not implementing EM. This would include such issues as the costs involved with these operational measures versus the existing costs without EM and a quantification on some normalized scale of the benefits (e.g. rand value for the added benefits of integration of offenders, psychological impacts, etc. versus the costs of offenders on EM perpetrating something with terrible consequences).

The specific objectives were to describe and evaluate:

- The contemplated purposes and uses of EM in the DCS and how these will work in practice.
- The behaviours/offences that other countries have used EM to address (e.g. certain types of offending, absconding, compliance with restrictions, entering prohibited spaces, as an alternative to remand, early release or short-term home leave from prison).
- The extent to which EM can be used in different courts to support desistance, to protect the public and/or reduce fear of crime, and/or as a form of punishment and how it would operate to try to achieve those ends.

- The impact and efficacy of these uses in terms of encouraging or inhibiting desistance, protecting the public, and/or reducing the costs of crime.

### 1.6. Methods

This research draws on international literature (grey and published) and data sources to describe examples of EM. It constitutes a circumscribed overview of the available evidence and international experiences – it is not systematic, nor is it comprehensive. The originality of this research is supported by unique primary data that was gathered from 59 participants using semi-structured interviews and facilitations with DCS officials and other professionals involved with rehabilitation of offenders at the state and local level.

Three key principles guided the development of this research and report, viz. that:

a) EM technologies provide a tool to gather information that, if used effectively, can enhance supervision. EM technologies, in and of themselves, do not constitute a programme within the DCS. EM technologies are merely one mechanism that can contribute to enhancing the effectiveness of rehabilitation and crime prevention programmes.

b) Despite several purposes for which EM technologies may be used, a prevailing consideration in the employment of such devices should be public safety. Therefore, the careful selection of goals of the initiative and identification of offenders with whom to tag the adopted device are among the most important decisions to be made.

c) The needs of the DCS and of its primary stakeholders should determine the framework for and character of EM supervision.

### 1.7. Terminology

The following are the terms that are commonly used in the study:

- Electronic monitoring

'Electronic monitoring' has become a generic term which encompasses a range of different technologies and modalities, rather than a single type of corrective measure (Taylor and Ariel, 2012: 2). Some authors and jurisdictions refer to EM as a sentence, others a condition of a sentence, some as 'electronically monitored punishment', and some instead prefer to refer to it as a tool (Nellis, Beyens and Kaminski, 2013; DeMichele, 2014). Nellis and Lehner (2012: 2) define electronic monitoring as 'a general term referring to the forms of surveillance with which to monitor the location, movement and specific behaviour of persons in the framework of the criminal justice process.' In this study, the term EM denotes

a structure of electronic supervision that tracks and records an offender's movement and location through a global positioning system (GPS) and other devices. The term also refers to methods of recording or transmitting information about an offender's location with an electronic device, including radio frequency monitoring, and satellite-based monitoring. EM is distinct from cameras for visible tracking of offenders, or closed-circuit television (CCTV) also known as video surveillance, or reporting kiosks, or substance use detection devices, or ignition interlock systems, and/or identity verification systems. Besides this extensive assortment of technologies, various features may be found within each type. We readily acknowledge that this research reflects an orientation towards the GPS solution that the Council for Scientific and Industrial Research (CSIR) is developing for the DCS.

Additional terms that are usually used when discussing EM include 'home monitoring', 'curfew monitoring', 'house arrest', 'home detention', and/or 'home confinement'. Rarely do EM initiatives require that offenders remain entirely confined within their homes, while full custody of the individual is often the case under arrest and detention conditions. In effect, offenders on EM are required to abide by curfews and must be within their homes except for approved activities like work, school, medical and/or treatment schedules. Although the term 'electronic monitoring' is primarily applied in this research, it will also be used interchangeably with 'electronic supervision'.

- Community corrections

In South Africa, the mandate of Community Corrections is to provide services focused on offenders, the preparation of offenders for release, effective supervision of offenders placed under the system of community corrections and the facilitation of their social re-integration into their communities. The strategic objective is to improve compliance with conditions set for parolees and probationers under Community Corrections. Correctional supervision was implemented on 15 August 1991 in South Africa through an amendment of the Correctional Services and Supervision Matters Amendment Act, 1991 (Act 122 of 1991) and these provisions were later included in the Correctional Services Act of 1998 (Act 111 of 1998).

### 1.8. Working group

A Working Group was formed comprised of the CSIR (EM solution designers), the DCS (product and service user of the device), and the HSRC (social science researchers) to facilitate inter-institutional information sharing. The Working Group met weekly including the CSIR and HSRC, and fortnightly including the DCS, CSIR and HSRC, in one (1) and three (3) hour sessions, respectively, for research

planning (to identify project characteristics; key stakeholders; key timeframes and considerations) and design.

### 1.9. Report outline

The report is organized into 6 chapters, including the foregoing introduction and overview, which introduced the background and objectives of current research, including some issues and questions setting the stage for in-depth discussion of EM in the remainder of the report. Chapter 2 presents the methodology of the study, which also includes the limitations thereof. Although chapter 3 and 4 are theoretical chapters, in chapter 3 the global context of electronic monitoring and its approaches are discussed, whereas chapter 4 discusses the literature review that addresses the four objectives of the study. Data analysis and presentation of findings are found in chapter 5, while key findings, conclusions and recommendations are presented in chapter 6.

# CHAPTER 2: METHODOLOGY

## 2.1. Introduction

This chapter presents the research methodology that was adopted in the study. To ensure scientific reliability and validity of the study, permission was granted from HSRC Research Ethics Committee (REC) to conduct this study (Appendix A). Permission was also sought from the DCS to gain entry to correctional officials, professional correctional officials, and other key security cluster stakeholders. To achieve its purpose, the chapter discusses the research design, literature search strategy, sampling, primary data collection, ethical considerations and limitations of the study.

## 2.2. Research design

This study adopted a case study research design that aimed to evaluate, through an in-depth study, the research problem (Yin, 1994; Babbie & Mouton, 2001). This design was suitable for clarifying an understanding of the social and economic factors that should be considered in contemplating EM in managing offenders on community supervision. The design allowed for detailed contextual analysis of a limited number of events or conditions and their interrelationships, including for the adoption and application of a variety of methodologies and sources (i.e., a mixed-methods approach) to investigate the research problem.

This study used qualitative methodological tools as these are deemed most appropriate for the purposes of gathering information in order to answer the research questions. Qualitative research allows for interviews in a less structured setting and the research team to observe non-verbal communication like facial expression (Miles & Huberman, 1994) especially with vulnerable populations like offenders. According to Babbie & Mouton (2001), the main goal of qualitative research is to describe, evaluate and understand, rather than explain human behaviour. Different techniques and data collection methods including online survey, key informant interview (KII), focus group discussion (FGD), and observation can be used to describe, observe, make sense of or interpret the experience of electronic monitoring offenders by interacting with research participants involved with the intervention. The methodology was particularly appropriate in this study investigating offender management practice.

The study design employed two parts, including (i) secondary data search and review; and, (ii) primary data collection.

## Table 2.1: Summary of the research strategy

**EVIDENCE BASE**

The main methods of the study were

**Semi-structured interviews** with:

*DCS officials* – directly involved with community supervision including regional and area commissioners, heads of community corrections, reintegration case management supervisors, corrections managers, and members of correctional supervision parole boards.
*Other professionals* – including auxiliary social workers, lecturers, high court managers, and legal practitioners.

**Reviewing Documents**

*Document reviews:* to elaborate the secondary data of previous researches elsewhere based on in-depth analysis of articles, reports and studies searched via databases e.g., Google, Scopus, Saflii, South Africa: African Human Rights Law Journal, South Africa: African Law Review, etc. This analysis of printed material and existing information included:

*Literature review:* e.g., survey or in-depth review of publications available on sustainable policy measures based on the implementation of digital technologies in corrections, namely EM, covering legislative, operational, sociological, and financial perspectives to highlight the importance of EM and its flaws.

*Programme/policy documents review:* e.g., review of a collection of materials that encompasses the EM policy corpus in South Africa, i.e., consider bills and supporting documents, evaluative and working group reports, guidance documents, impact statements, memoranda, news releases, public consultations and speech transcripts by the Government, DCS, Justice and Correctional Services National Assembly Committee published between 2008 and 2021. We select this period because it reflects the time during which South Africa began to produce much of its EM policy.

*Official records review:* e.g., search existing sources of information (e.g., documents pertaining to the pilot programme, including business cases, and other strategy documents)

*Expert or peer review:* e.g., the assessment of the EM programme by experts and/or Parliament review committees.

**Sites visited**

We conducted the interviews at the following sites to identify, understand and critically evaluate the impacts associated with implementing EM in the DCS for offender management.

*Gauteng Region*

- Krugersdorp Community Corrections
- Modderbee Correctional Facility, Benoni
- Modderbee Community Corrections, Benoni
- UNISA

*Limpopo-Mpumalanga-Northwest Region*

- Polokwane Area Office
- Polokwane Correctional Centre
- Legal Aid South Africa, Polokwane
- Sibasa (Thohoyandou) Community Corrections Office, Thohoyandou LMN
- Matatshe (Thohoyandou) Correctional Centre, Thohoyandou LMN
- Nelspruit Area Office
- Nelspruit Correctional Centre

*KwaZulu-Natal Region*

- Westville Correctional Facility, Durban
- Durban Community Corrections
- UKZN Howard College, Durban
- KZN Regional Commissioner's Office, Pietermaritzburg
- Glencoe Correctional Facility, Dundee
- Estcourt Community Correctional Facility, Estcourt
- Bergville Correctional Facility
- Ladysmith Correctional Facility
- Ladysmith Community Corrections

### 2.3. Literature search strategy

The examination is based on the narrative literature review conducted by the authors of this report on available literature on EM. As such, this analysis constitutes a bounded overview of the available evidence and international experiences – it is not systematic, nor is it comprehensive. Combinations of the following search terms were used in association with 'electronic monitoring' and 'EM': 'technology', 'tag' 'tagging', 'GPS', 'radio frequency' 'RF', 'offender', 'victim', 'effectiveness', 'criminal justice', 'probation' 'offender supervision', 'prison' and 'post-release', 'crime', 're-offending' 'recidivism', 'compliance', 'desistance', 'public attitudes' 'public perceptions'.

### 2.4. Sampling: Planned versus actual

The initial plan for primary data collection included a survey across the six DCS regions viz. Gauteng (GP), Western Cape (WC), KwaZulu-Natal (KZN), Eastern Cape (EC), Free State and Northern Cape (FSNC), and, Limpopo/ Mpumalanga/ North West (LMN). However, only 50% of the DCS regions was selected and sampled using the inmate population according to occupancy level ratios as at 31 October 2021 in a number of correctional centres, ranging from 100% to 150% occupancy level. Correctional centres were selected from the three most overcrowded regions with the highest levels of occupancy, viz. KwaZulu-Natal (KZN) 27%, Limpopo/Mpumalanga/North West (LMN) 20%, and Gauteng (GA) 14%, respectively. Across the selected regions, non-probability sampling including convenience, purposive and snowball techniques were used to select participants. It was the best method because it focused on specific groups of DCS and other professionals, and civil society involved with rehabilitation of offenders and community supervision. This sampling technique allowed the research team to make deliberate choices of participants due to the information they possess. According to Bernard (2002), this technique helps researchers to decide what needs to be known and to select people who are willing to provide the information by virtue of their knowledge and experience.

From three sampled regions, 59 KIIs were successfully conducted, with the majority of the participants located in the Kwa-Zulu Natal region (Table 2.2). Various management areas within the selected regions were visited based on their occupancy level, wherein the most crowded centres were visited.

**Table 2.2: Number of participants per region per place**

| GAUTENG REGION | | LMN REGION | | KZN REGION | |
|---|---|---|---|---|---|
| Krugersdorp Community Corrections | 1 | Polokwane Area Office | 1 | Durban, Westville | 1 |
| Modderbee Correctional Facility, Benoni | 11 | Polokwane Correctional Centre | 6 | Durban Management Area | 6 |
| UNISA | 1 | Legal Aid South Africa, Polokwane | 2 | UKZN Howard College, Durban | 1 |
| | | Sibasa (Thohoyandou) Community Corrections Office | 1 | KZN Regional Commissioner's Office, Pietermaritzburg | 1 |
| | | Matatshe (Thohoyandou) Correctional Centre, Thohoyandou | 3 | Glencoe Correctional Facility, Dundee | 18 |
| | | Nelspruit Area Office | 5 | | |
| | | Nelspruit Correctional Centre | 1 | | |
| ***Total per Region*** | ***13*** | | ***19*** | | ***27*** |
| ***Total Participants*** | ***59*** | | | | |

Although the target population for the study was 80 KIIs, a total number of 22 identified stakeholders did not participate in the study. A satisfactory number of civil society organisations (CSOs), government departments and institutions with which the DCS has a working relationship across the sampled regions were visited and interviews requested (Table 2). However, only a few agreed to participate in the study and the following are the ones who were either unavailable, rejected the interview requests, never responded to requests and/or never answered calls when follow-ups were made.

**Table 2.3: Sampled stakeholders who did not participate in the study**

| Organisation | Contact Details | Objective | Status |
|---|---|---|---|
| **Gauteng Region** | | | |
| *Department of Justice and Constitutional Development* | Chief Directorate: Promotion of Rights of Vulnerable Groups<br><br>Directorate: Victim Support and Specialized Court Services<br><br>329 Pretorius Street, Momentum Building Pretoria, 0002 | To support victims to claim their rights and to act with responsibility in ensuring the realization of justice | Relevant contact person was established, request email sent and have been waiting to get confirmation date for interview. |
| *South African Human Rights Commission* | JD House<br>27 Stiemens St, Braamfontein, Johannesburg, 2001 | The Legal Service Unit seeks to foster an understanding and respect for human rights by addressing human rights violations or threats of a violation, which includes making appropriate findings and recommendations to stakeholders. | Request directed to the research section of the institution and have been waiting to get their response. |
| *Legal Aid South Africa (Pretoria)* | 144 Cantonment Street,<br>Selborne Centre, Lyttelton, Pretoria | Legal Aid South Africa provides professional legal advice and representation to those who cannot afford it. They try to help as many people as possible, including vulnerable groups such as women, children, the elderly, disabled and the rural poor | Request email was sent, redirected to relevant person and have been waiting to get confirmation date for interview. |
| *National Prosecuting Authority of South Africa (NPA)* | 123 Westlake St, Weavind Park, Pretoria, 0184 | The National Prosecuting Authority strives to deliver justice in South Africa by prosecuting without fear, favour, and prejudice. They seek to serve the public through an effective, efficient, and equitable administration of justice. | Request was directed to the research section of the institution and received a positive response only after data collection was completed. |
| *Conquerors Through Christ Ministries (CTC)* | Apostle Jannie Ngwale<br>CTC Ministries<br>Dome, Atteridgeville, Pretoria | Spiritual care to make people conquer in all spheres of their lives including breaking the cycle of crime and facilitate social reintegration | Reference made to a relevant pastor who never responded to our request as he has promised and |

| | | | |
|---|---|---|---|
| | | reconciling offenders, victims and communities. | eventually never took our calls. |
| *Imbokodo Support for Ex-Offenders* | Yoliswa Keswa<br>Email: imbokodovod@gmail.com<br>Phone: 011 988 6765<br>West Rand, Johannesburg | Invest in the lives of offenders and ex-offenders, by providing access to the services and resources necessary for individuals to embrace a productive, crime-free life; support and educate offenders and ex-offenders, families and communities; providing comprehensive programmes that will make their re-entry productive; breaking the cycle of re-offending; and creating safer and stronger communities. | The address on their website is incorrect. A request email was sent and Ms Keswa agreed to participate in the study but later requested that we cancel. |
| *NICRO* | Suite 544 217 Van Erkom Building, Pretorius St, Pretoria, 0002 | Provides comprehensive crime prevention services across South Africa including pre-release social reintegration programmes. | Request email was sent and have been waiting to get confirmation date for interview. |
| *Lawyers for Human Rights, Pretoria, Gauteng* | Office Number: (012) 320 2943<br>Website: http://www.lhr.org.za/<br>Pretoria, Gauteng<br><br>Kutlwanong Democracy Centre, 357 Visagie Street | It provides free legal services to vulnerable, marginalised and indigent individuals and communities, both non-national and South African, who are victims of unlawful infringements of their constitutional rights. | Request email was sent, redirected to relevant person and have been waiting to get confirmation date for interview. |
| *Khulisa* | 7th Floor Nedbank Gardens, 33 Bath Avenue, Rosebank,<br>Tel: 011 788 8237<br>Email: info@khulisaservices.co.za<br>Website: www.khulisaservices.co.za<br>www.supportkhulisa.co.za | Promote the status of ex-offenders through rehabilitation and reintegration programmes. | Relevant contact person was established and request email was sent. On follow-up, the contact person could not be reached. |
| *Centre for Study of Violence and Reconciliation* | Floor 3, Braamfontein, 33 Hoofd St, Braampark, Johannesburg, 2001 | Offers life-skills programmes in helping ex-offenders to rebuild their resilience and address risk factors associated with reoffending. | Request email was sent and have been waiting to get confirmation date for interview from the relevant person. |
| *Nelson Mandela Foundation* | 107 Central St, Houghton Estate, | Knitting together broken lives offender rehabilitation and | Relevant contact person was established, request |

| | | | |
|---|---|---|---|
| | Johannesburg, 2198 | social re-integration through the 67 Blankets for Nelson Mandela Day. | email was also sent and interview was rejected. |
| *Universities:*<br>*a) University of Pretoria*<br><br><br><br><br>*b) University of South Africa* | Lynnwood Rd, Hatfield, Pretoria, 0002<br>Faculty of Humanities Department of Criminology and Social Work<br><br>Preller St, Muckleneuk, Pretoria, 0002 | Experiential Learning in criminology and correctional science on community profiling, offender assessment tools and facilitation of correctional programmes<br><br>EM Steering Committee Member (2011-2013) | Relevant contact persons were established, request emails were sent and have been waiting to get confirmation date for interview.<br><br>Rejected the interview as he wanted to be compensated for his participation. |
| **Limpopo, Mpumalanga and North West Region** | | | |
| *NOCRO* | 28 Jorissen Street Polowane Central, 0700 | Provides comprehensive crime prevention services across South Africa including pre-release social reintegration programmes. | Interview was rejected and referred to their head office in Cape Town. |
| *Provincial Community Policing Forum* | Not provided, only the cellphone number of the contact person. | Identify and address risk and contributing factors for crime. | Appointment was made but there was no answer on follow-up calls. |
| *South African Police Services* | Polokwane Police Station<br>38 Schoeman Street Polokwane Central, 0700 | Investigate criminal cases, prevent crime and apprehend those that act against the law. | Relevant contact person established and was on long sick leave. The acting person in the position was sent a request email which was never responded to or acknowledged. |
| *Department of Justice, Polokwane* | 92 Bok Street Polokwane Central, 0699 | Reduce crime and corruption through effective prosecution. | Relevant contact person was established, request email sent and was referred to the relevant official who never responded to the emails. |
| *Ikhayalethemba Mission, Lebowakgomo* | 575 Zone A Lebowakgomo, 0745 | Offer spiritual care, religious services and teachings to offenders and offer sense of belonging. | Relevant contact person was established and appointment was made for the interview. On arrival, there was no one at the provided address. |
| *Tshakhuma Tribal Council* | Not provided | Traditional authority that assists the DCS with social reintegration of offenders. | Relevant contact person was established and appointment was secured but later cancelled. |
| **Kwa-Zulu Natal Region** | | | |

| | | | |
|---|---|---|---|
| *Thomas Ferreira* | P.O. Box 1014, Durban, 4000<br>Tel: 031 311 4271<br>Email: imagine@durban.gov.za | Lobbying and advocating for ex-offenders' reintegration into community and labour market | Relevant contact person was established and unfortunately person was travelling out of Durban and would not be available for the time interview was requested. |
| *South African Council of Churches (SACC)* | Diakonia Centre Durban Province<br>Physical Address: Room S104 Diakonia Avenue | After Care and Social Reintegration programmes. Assist DCS with the reintegration of offenders affected by remission of sentence projects | Relevant office contacted they requested email and alternative date as they were currently engaged with field humanitarian activities in communities affected by floods. |
| *Lawyers for Human Rights, Durban, KwaZulu-Natal* | Office Number: (031) 301 0531<br>Website: http://www.lhr.org.za/<br>City: Durban<br>Physical Address: Room S104 Diakonia Centre, 20th Diakonia Avenue | Lawyers for Human Rights is an independent human rights organisation on human rights activism and public interest litigation in South Africa using the law as a positive instrument for change and to deepen the democratisation of South African society. It provides free legal services to vulnerable, marginalised and indigent individuals and communities, both non-national and South African, who are victims of unlawful infringements of their constitutional rights. | Relevant office contacted they requested an email which was sent and they did not respond. |

## 2.5. Primary data collection

Primary data collection from the DCS officials and other stakeholders rolled out in four phases as follows:

- **Phase 1:** Gauteng region from March 22 to April 1, 2022;
- **Phase 2a:** KwaZulu-Natal from April 19 through 30 (April 19-23 Durban; April 23-26 Dundee; April 26-30 Newcastle);
- **Phase 2b:** LMN from April 19 through 30 (April 19-23 Polokwane; April 23-26 Thohoyandou; April 26-30 Nelspruit):
- **Phase 3:** Virtual, all throughout data collection period: and,
- **Phase 4:** Gauteng region from May 11-20, 2022.

As part of data collection, the research team attended the Callas Foundation Pilot Project on "Interventions on Non-Custodial measures for Women in Conflict with the Law" with UNODC event on "Access to Justice Stakeholders Meeting". The event was held on April 5-6, 2022 at the Premier Hotel, 1 Marais Road, Sea Point, Cape Town. During the meeting, this project on EM was introduced and interview requests submitted to various stakeholders. A few interviews were obtained despite many responded positively to the interview requests.

### 2.6. Ethical considerations

This study was guided by the following ethical considerations which were presented to all the participants:

- **Voluntary participation**

Participation of all the participants of the study was totally voluntary. Declining to participate or discontinued participation at any time, did not result in a penalty.

- **Confidentiality**

Although permission for audio-recording the interviews was requested, the name or any other personal identifiers were not recorded. Confidentiality was maintained to the extent allowed by law; and the signed consent form was not attached or associated with any recorded information that was provide. The answers provided are stored electronically and are used for research or academic purposes now or at a later stage in ways that will not reveal who the participants are.

- **Risks and benefits**

Participants were selected to participate in the study because they are members of the DCS offender management 'community', broadly defined. There were no reasonably foreseeable risks, discomforts, or direct benefits to their participation. This study will only be helpful to in providing insights to identify and evaluate critically the impacts associated with implementing EM in the DCS for offender management.

- **Consent**

Consent was requested from all participants with an understanding that they agree to participate in this study freely and without being forced in any way to do so; they can stop participating at any point should they not want to continue and that this decision will not in any way affect

them negatively; this study purpose is not necessarily to benefit participants personally in the immediate or short term; and that their participation will remain confidential. Further, participants were made aware that the information they provide will be stored electronically and will be used for research or academic purposes now or at a later stage in ways that will not reveal who they are.

### 2.7. Limitations of the study

The general limitations of the study are as follows:

- Reduction of the sample size due to budget constraints. Given the allocated budget, it was not possible to collect data cross the six DCS regions as planned and as a result the sample size had to be reduced by 50%.
- As part of the sample reduction, some identified participants were also eliminated from the study. Offenders were not involved in the study due to their vulnerability and for safety reasons as raised by the DCS. Permission to access the identified offenders was not granted by the DCS and as a result this group of participants had to be eliminated from the study.
- FGDs were also not conducted, as the DCS indicated the difficulties of bringing together families of offenders and victims who are from various communities within the regions. As a result, only DCS officials involved with community corrections were targeted.

From the experience of data collection in the three regions, the following were established as additional reasons for the lack of participation in the study:

- Changed contact details of and non-response by most of the organisation led to us physically visiting the premises unannounced to secure appointments. However, on arrival most institutions asked for interview requests to be sent by email, most of which did not receive a response;
- Most CSOs seem not to have an existing relationship with the DCS as per information we obtained from the DCS and as a result either declined to participate in interviews or never responded to the email requests;
- As a result of working from home arrangements due to COVID-19 regulations or concerns applicable during the research period, administrators were mostly the ones who

were found at the premises and the majority of them did not understand what the study was about. Although referrals were made and contact details were provided of those who they regarded as the relevant potential participant, most potential participants asked for email requests, to which they never responded; and,

- Lack of financial compensation for participating in the study was one of the major challenges that made potential participants not to be interested in the study.

## 2.7. Conclusion

Despite the limitations experienced in the study, satisfactory number of KIIs were conducted across the three selected regions of the DCS, with both the DCS officials and some of the external stakeholders involved in offender management in South Africa. From a planned sampled of 80 participants, 59 KIIs were completed. The following chapters 3 and 4 present some theoretical perspectives on EM, with chapter 3 discussing the global context of EM and chapter 4 reviewing specifically the four objectives of the study.

# CHAPTER 3: GLOBAL CONTEXT OF ELECTRONIC MONITORING AND APPROACHES

## 3.1. Introduction

The size of prison populations worldwide is growing at alarming rates, placing enormous financial burden on governments and at a great cost to the social cohesion of societies. Together with increasing prison populations, the number of vulnerable prisoners is also rising in many countries including women, prisoners with mental-health care needs, drug-dependent prisoners, foreign national prisoners, racial and ethnic minorities, older prisoners, prisoners with disabilities and children. Their special needs cannot be met in overcrowded prisons, where their situation deteriorates in the harmful closed environment. The lack of adequate space is only one of the numerous problems that are experienced as a consequence of overcrowding in prisons. In South Africa, the majority of prisoners come from economically and socially disadvantaged backgrounds. Poverty, unemployment, lack of housing, broken families, histories of psychological problems and mental illness, drug and alcohol abuse, and domestic violence are realities that are found in the lives of most offenders. Many are in prison for non-violent or minor offences, including a growing and significant number of women in conflict with the law. By using prison as an answer to all offences committed by such individuals, not only is the issue of safety in the community not addressed in any sustainable manner, the cycle of impoverishment, loss of jobs, weakening of employment chances, damage to relationships, worsening of psychological and mental illnesses, and continued or increased drug use is perpetuated. The purpose of this chapter is to give a brief overview of the global context of electronic monitoring and its approaches by focussing on the context of electronic monitoring, electronic monitoring technologies, the GPS's tagging, tracking and potential strengths and benefits, emerging use of electronic supervision tools and the uses of EM.

## 3.2. Context of electronic monitoring

Correctional centres are obliged to provide a healthy living environment for all offenders, whereby they get a chance to reflect on the crimes they have committed, repent, and set new goals for their lives in the free world that awaits them after confinement (DeLisi et al., 2004). Yet, overcrowding impacts on the quality of nutrition, sanitation, prisoner activities and programmes, health services, and the care for vulnerable groups. It affects the physical and mental well-being of all prisoners, generates prisoner tension and violence, exacerbates existing mental and physical health problems and poses immense management

challenges. Overcrowded correctional centres are not only uncomfortable but also harsh, and thus numerous released inmates bear the negative consequences of their experiences long after their release. In this respect, Muntingh (2005) submits that overcrowding in correctional centres negatively affects the rehabilitation of offenders, regardless of the fact that the DCS regards rehabilitation as the main goal of imprisonment. Overcrowding in correctional centres has been a driving cause of the ineffectiveness of the rehabilitation of offenders. Indeed, the impact does not remain within the prison walls. High rates of imprisonment have a detrimental impact on the staff who work in these centres, on the economy, on public health and on the social cohesion of societies.

Part of the solution to overcrowding includes prisoner release as their continued incarceration affects inmates negatively, especially if they are constantly unclean and lack necessary resources such as uniforms, toiletries, food and blankets. Further, health risks associated with overcrowded prisons can spread infectious disease like COVID-19, tuberculosis, monkey pox, and violence, e.g., #26 and #28 prison gangs. The construction of new prisons and maintaining them is expensive, exerts additional pressure on available resources, and so does not provide a sustainable solution to address the harmful effects of prison overcrowding (Adams et al., 2019). When discussing the cost of imprisonment, account needs to be taken not only of the actual funds spent on the upkeep of each prisoner, but also of the collateral costs, such as the impact of these costs on human resources, social, economic and health care services, which are not always easy to measure, but which are immense and long-term (Kristofik et al., 2017). In this milieu, there is a growing global call towards sentencing policies to include non-custodial substitutes to reduce the number of people in custody for long periods. Alternatives on their own yield relatively little effect on the size of prison population, however. According to the United Nations Office on Drugs and Crime (UNODC, 2006), comprehensive reform of criminal legislation in countries to meet the objective of reducing the number of prisoners should involve, e.g., decriminalizing certain acts, providing shorter terms of imprisonment for selected offences, in addition to introducing a wide range of non-custodial sentences as alternatives to prison and widening possibilities for parole (i.e., conditional release).

However, the goal of introducing alternatives to custody is not only to address the problem of overcrowding in jails. The wider use of alternatives reflects a fundamental change in the approach to crime, offenders and their place in society, changing the focus of prison measures from punishment and isolation, to restorative justice and reintegration. Despite post-1994 South Africa setting itself on a path that would rehabilitate offenders instead of punishing them, issues such of overcrowding in correctional centres militate against rehabilitation programmes being effectively implemented. When accompanied by

adequate complementary support for offenders, alternatives to custodial sentences, including EM, assist some of the most vulnerable members of society to lead a more productive life without relapsing into criminal behaviour patterns. Thus, the implementation of corrective sanctions within the community, rather than through a process of isolation from it, offers in the long-term better protection for society.

There are also economic arguments in favour of alternatives to custodial sentences. In western societies, the supervision of offenders within a probation system is normally much less costly than the upkeep of a prisoner. For example, the daily average cost per prisoner in Sweden in 2003 was EUR 200 (closed prison), compared to the cost of a probationer at EUR 17. In Finland, the cost of a probationer in 2004 was EUR 2,800 per year, compared to the cost of a prisoner at EUR 44,600 (Lindholm, 2005: 5). In Estonia, the cost of supervising each probationer is about ten times less than the cost of maintaining a prisoner and in Romania about eleven times less (Kalmthouht, 2005: 11). On the other hand, western style probation services may not be practical options for many countries, where resources are too scarce to set up and maintain an effective probation system with adequate staff and finances. In these circumstances, the further development of existing structures and the use of existing staff (e.g. staff of magistrate's courts, municipal authorities, social welfare agencies, administrative staff of institutions where community service is implemented) and volunteers for the supervision of non-custodial sentences may be more viable and effective options. Successful examples include Zimbabwe, Latvia and Russia. For instance, in Zimbabwe where a community service scheme was developed on this basis in the early 1990s, the monthly cost of supervising an offender on community service was estimated to be about one third of that of keeping a person in prison (UNODC, 2006; Stern, 1999).

In order to ensure effective implementation of alternatives to custodial sentencing, the organizational aspects of the implementation of alternatives, such as community service, in particular, must be taken seriously and adequate human and financial resources allocated to the proper management and administration of community-based sanctions systems. As the significant feature of alternative sanctions is that they are served in the community, the support of the public must be ensured. Lastly, the human rights of offenders need to be protected. A number of international instruments prescribe the ethical, legal, and executive framework in which non-custodial sanctions can be applied. An underlying principle with sanctions that oblige offenders to perform certain acts is that they require the offender's consent. This is particularly relevant in the case of community service sanctions (refer United Nations Standard Minimum Rules for Non-Custodial Measures – Tokyo Rules 3.4). Further, since abuses of offenders' human rights can occur in the implementation of sanctions such as community service that require a person to perform

certain acts under supervision, it is vital that offenders have recourse to a formal complaints system, set out clearly in legislation (refer Tokyo Rules, 3.6 and 3.7.).

### 3.3. Electronic monitoring technologies

An EM system is a structure that tracks and records an offender's movement and location through a global positioning system (GPS) and other devices. It refers to methods of recording or transmitting information about an offender's location with an electronic device, including radio frequency monitoring, and satellite-based monitoring. Three (3) types of EM devices are delineated, viz. (1) radio frequency (RF) EM, (2) Global positioning system (GPS) EM, and (3) Satellite-based EM. A Personal Identification Device (PIO), commonly called the tag, is fitted to the ankle unless there are reasons that prevent this. Its appearance resembles a wristwatch. The concentration of this research focus is on the GPS EM technology.

**Figure 3.1:** Pictures of the prototype

Figure 3.1 demonstrates an electronic tag or bracelet which is used as a form of surveillance worn by an offender mostly above the ankle as part of their probation or parole conditions.

### 3.4. The GPS: Tagging, tracking and potential strengths and benefits

There are different active and passive approaches that can be taken to GPS monitoring. Active GPS describes continuous location monitoring information relayed to a monitoring centre in real time, at designated intervals that can be set by the centre (e.g., every 30 seconds, 1 minute, or 2 minutes). Where satellite signal is lost, Wi-Fi positioning systems and GSM location-based services enable a monitored person's location to be established through triangulation between mobile phone masts (called 'towers'), without requiring the monitored person to connect the

GPS with a docking device or have a landline connection (Geoghegan, 2012). The associated limitations are that it relies on the availability of signal, it is labour and resource intensive, and may involve a certain level of 'liability' for supervising officers and agencies based on the requirement of immediate response in the event of a violation alert (International Association of Chiefs of Police, 2008).

By comparison, passive GPS monitoring collects the same location and time data, but it is stored within the GPS EM equipment, and is downloaded usually on a daily basis. It can be routinely retrospectively checked by supervising officers who wish to check compliance or non-compliance. This approach is perceived as less labour intensive; however, passive monitoring will not generate an immediate alert in the event of an exclusion zone violation (International Association of Chiefs of Police, 2008). Hybrid GPS monitoring approaches are possible, and these involve the combination of both passive and active technological capabilities, and the intervals at which they report data can be programmed on an individualised basis as to the frequency of which monitoring information is relayed to the monitoring centre.

There are few strengths and benefits highlighted in the literature regarding the use of GPS tagging and tracking. (a) Its use is associated with moderately high levels of compliance for the duration of the period of monitoring, and it may act as a deterrent to re-offending because it has the capacity to yield more detailed information regarding a person's location in real time (Bales et al., 2010; Gies et al., 2012; Padget, Bales & Blomberg, 2012). This can be understood in terms of instrumental compliance and surveillance-based compliance (Hucklesby, 2009). Its impact on recidivism or desistance in the mid- to long-term after monitoring has finished is less clear, due to a lack of empirical literature. (b) The use of active GPS and 'away from' restrictions around the property and person of a victim can enhance authorities' capacity to respond quickly should a high-risk monitored person breach an exclusion zone. (c) Another potential strength is its capacity to contribute relevant information to integrated and multi-faceted risk management within offender supervision. In fact, in use of EM in England and Wales, Geoghegan (2012: 77) suggests that GPS or hybrid combined RF/GPS could be used with offenders who have been assessed as medium- and high-risk. Further, hybrid GPS may allow facilities to be more willing to grant day parolees if they know that the prison, as the authorising agency, will have swift access to location-based information and violation alerts.

On the other hand, day parole is routinely granted only to offenders who do not pose a significant risk to public safety, so it is also possible that GPS may have limited impact.

Although it continues to attract considerable attention among policymakers, practitioners and academics around the world, the use of GPS-based monitoring is not as widespread as may be expected from the extent of the attention it has received. Nonetheless, GPS can be an effective surveillance tool. For instance, it was designed so that offenders need not remain in prison and to be a financially cheaper and/or socially more beneficial alternative to imprisonment. Thus, the EM schemes must be cost-effective and sustainable (Ardley, 2005). In the era of austerity measures and calls for more efficient provisioning of public services, EM presents a sustainable alternative to incarceration for many countries.

### 3.5. Emerging use of electronic supervision tools

Electronic supervision of offenders is not a new idea. It was recorded as being used in 1964 to monitor the whereabouts of parolees and mentally ill patients in Cambridge and Boston, Massachusetts. The principle of rehabilitation behind this innovation was based on the idea that 'when specific offending behaviours can be accurately predicted and/or controlled within the offender's own environment, incarceration will no longer be necessary as a means of controlling behaviour and protecting society' (Schwitzgebel et al., 1964: 237, as cited by Gable, 1986: 167). Apparently, the inventors of the electronic supervision and earliest equipment had high expectations for its effectiveness. In fact, the *Wall Street Journal* described electronic supervision as the 'hottest new technology in crime control' (Corbett, 1989: 74). By 1989 EM was predicted to become the 'dominant means of probation and parole supervision within the next 20 years' (Bennett, 1989). Indeed, it was met with enthusiasm and anticipation; heralded as a solution for many prevailing problems, including large caseloads, crowded jails and prisons, and the high costs of incarceration and supervision.

In 1986, the U.S. Parole Commission developed an experimental "Curfew Parole Programme" for the early release of some inmates. This programme began by using telephone calls and in-person contacts to monitor home curfews of offenders between 9:00pm and 6:00am. However, because of limited resources and concerns about the enforcement of curfews, a pilot study was developed and implemented in 1988 to evaluate the use of electronic equipment to monitor the offenders in the curfew programme. The following year the programme was expanded to include probationers and pre-trial defendants. By 1991, the Federal system was implementing electronic supervision nationally (Gowan, 2000). While EM today appears to

be an established component of some programmes that supervise offenders, it has, however, not yet proven to be the panacea that early advocates of the technology predicted (Kamila et al., 2020). In fact, the neutral scientific evidence of its effectiveness in rehabilitating offenders is becoming less important than the political and managerial appraisal of what might be effective in protecting the public (Tonry, 2003; Nellis, 2004).

### 3.6. The uses of EM

EM is accepted internationally as a practice that can help detect offenders' compliance with restrictions and track their locations for supervision. However, it conjures different images. Some see it as punitive, others as lenient. Some view it as a means to improve supervision, others as a way to saving correctional coffers. Some feel it is best suited for offender accountability, while others believe its best use is for treatment compliance, behavioural shaping of unstructured lives and mitigation of absconding. Some are intrigued and others baffled by tools of digital technology. From the perspective of the DCS, EM technology will contribute to promoting just, peaceful and safe communities by ensuring the corrections environment is safe, humane, and offenders are optimally rehabilitated to reduce their likelihood of reoffending (DCS, 2021; 2020). Indeed, these targets are constitutive to the DCS's mandate derived from the Correctional Services Act, 1998 (Act 111 of 1998), the Criminal Procedure Act, 1977 (Act 51 of 1977), the 2005 White Paper on Corrections in South Africa, and the 2014 White Paper on Remand Detention Management in South Africa.

The uses of EM technologies have increased and diversified in terms of geographic spread and in relation to the types of offences and groups of people made subject to it at different points in the criminal justice process (Nellis et al., 2013). Consequently, there are multiple points at which EM can be considered within criminal justice systems. The decisions concerning at which point to establish EM in the value chain involve thorough assessment of the needs and resources available to the entire system in order to consider all the areas in which EM might be beneficial. In some cases, if electronic technologies can be used in more than one programme, cooperative development might result in economies of scale and more efficient programme operation. Further, the objectives of EM are diverse and include diversion from custody and reducing prison populations, supporting desistance, providing public protection and reducing criminal justice costs. Additionally, developments in technology bring with them new opportunities to use EM with new groups of people and in new ways. However, these opportunities themselves present not insignificant practical and ethical challenges. In effect:

> "…The extent to which EM can continue to provide a benefit will depend less on the technology available now and in the future, than on how we might choose to apply it, i.e., with which groups, with what safeguards and to what end…" (Scottish Government, 2012).

Further, Nellis & Vanhaelemeesch (2012) caution against continuing extensive global evolution and applications of EM as:

> Not all uses of EM have been wise... So, in thinking about a "gold standard" for EM in all its aspects we should remember that it is not EM in itself that we are judging, but the contribution that EM could and should make to civilised and constructive criminal justice systems, which make only sparing use of imprisonment and which are as firmly committed to the rehabilitation and reintegration of offenders as they are to public protection (Nellis & Vanhaelemeesch, 2012: 1).

The outcome variables typically evaluated to assess the effectiveness of EM are revocations, recorded infractions, and recidivism. Concern with the results of past evaluations that have shown EM to reduce rates of recidivism have centred on the selection of low-risk offenders for participation in EM programmes (Gable & Gable, 2005). A meta-analysis of studies examining the impact of EM on the criminal behaviour of moderate- to high-risk offenders did not find any evidence demonstrating the effectiveness of EM in reducing recidivism (Renzema & Mayo-Wilson, 2005). There is no empirical evidence that demonstrates the effectiveness of EM and its use over other diversion strategies and it has therefore been recommended that EM be used in conjunction with treatment interventions that have been shown to be effective (Renzema & Mayo-Wilson, 2005).

For more than 50 years, the DCS use manual tracing and monitoring of parolees under supervision. The use of manual (handwriting) tracing and monitoring of parolees was recently supplemented with an EM system (Nicro, 2011). Parolees are monitored through EM system when they go out to the public. No country in Africa has attempted EM of offenders except South Africa. It was piloted in 2011 with 150 offenders and in 2016/17 the intervention was halted but not entirely removed. Presently, no inmate or parolee is on EM. The DCS is reconsidering the intervention with a view to developing a localised EM solution. Although the system has been used in many countries, including during the pilot in South Africa, it does not stop offenders from committing crime again (Nicro, 2011).

According to Naidoo (2011), reoffending by offenders leads to overcrowding of correctional centres and to increasing the need to build new correctional facilities. Goko (2013) argues that in a country like South

Africa, the cost to taxpayers of housing and feeding offenders will be reduced by up to R 6, 500 per inmate a month if the country were to implement EM of parolees. Despite attempts of a parolee monitoring system in the DCS, some users are slow in adopting the innovation and others resist it altogether. As a result, benefits are not realised (i.e., cost reduction of housing the offenders, overcrowding of correctional facilities) from the huge investment it has already made since 2011.

**Table 3.1: Examples of surveillance-based reintegration programmes**

| Title | Intervention | Impact on recidivism |
|---|---|---|
| **HotSpot Community Initiative - Maryland (Piquero, 2003)** | Intensive community supervision in HotSpot communities. Communities participating in the program were willing to mobilize resources and had community policing, community probation, community maintenance efforts, youth prevention activities, and local coordination. HotSpot teams were created in each community and are composed of parole and probation officers, youth councillors, and community policing officers. The members of the HotSpot teams are responsible for the supervision of probationers in their communities; they perform activities such as curfew checks and home visits. | The recidivism rate of offenders who were under intensive community supervision was compared to that of offenders who participated in "normal" probation. The study did not find that participation in intensive supervision increased the participants' likelihood of technical violations. Rather, rearrests were more prevalent than technical violations for the HotSpot participants. It was also found that offenders who underwent HotSpot supervision were likely to re-offend if supervised for long enough period of time. |
| **The Anchorage (Alaska) Coordinated Agency Network (CAN) (Giblin, 2002; O'Rourke, et al., 1998)** | The objective of the CAN program is to reduce recidivism by (1) increasing and enhancing the intensive and systematic supervision of youth probationers, and (2) providing youth with positive role models in their community. The first objective is accomplished by having a police officer - who has volunteered to participate in the CAN program - visit the youth probationer at least twice per month to ensure the youth is complying with the terms of their probation order. The officer may question the youth and his/her parents and/or guardians, provide advice for the youth, and answer any questions the youth and/or his/her parents and/or guardians may have. Essentially, the first objective is to supplement the | Youths who participated in CAN were more than three times more likely than non-CAN participants to incur new technical violations. This was likely not due to the fact that CAN probationers committed more technical violations, but rather due to the fact that CAN probationers had a greater opportunity of being detected due to more visits from probation and police officers. |

| Title | Intervention | Impact on recidivism |
|---|---|---|
| | probation officer's contacts with the youth probationer, as the police officer's visits increase the number of in-person contacts the youth has with criminal justice personnel. | |
| **The Learning Resources Program (LRP). Electronic monitoring. (Bonta, Wallace, Capretta, & Rooney, 2000)** | The LRP provides probationers on electronic monitoring with individual anger management counselling and critical thinking skills, along with substance abuse groups with relapse prevention plans that are developed in each of the groups. These groups are highly structured and are based on the cognitive-behavioural approach and are offered four days a week for a total of 9 hours per week. | High-risk offenders who were given EM and intensive treatment had lower recidivism rates than those high-risk offenders who were not treated (31.6 percent and 51.1 percent respectively). These findings do not support the use of EM as a way to decrease recidivism, as there was not a statistically significant difference between the overall recidivism rates of those on EM (31.5 percent) versus those not on EM (35.3 percent). |
| **Intensive Supervision and Surveillance Programme (ISSP). U.K. Youth Justice Board. (Grey, et al, 2005)** | Multiple components designed to address the multi-faceted needs of young offenders. Intensive and combines supervision with surveillance in an attempt to create structure in youth's lives in order to manage risk and reduce reoffending. Specific objectives include reducing reoffending among the target group by five percent and the seriousness of re-offending; to address the problems of youth, particularly with respect to education and to provide supervision and surveillance in a consistent and rigorous manner. | The frequency of reoffending in the ISSP sample decreased by 40% over one year and 39% over two years. The seriousness of re-offending in the ISSP sample decreased by 13%, one and two years after ISSP. However, the proportion of offenders reconvicted at least once during the two year follow-up period was very high: 91% in the ISSP sample, a not unexpected result given that "the young people in the sample had committed an average of 11.6 offences in the previous two years." Statistically significant results at 12 months disappeared at 24 months in many instances, suggesting that the impact of the ISSP may fade over time. This is consistent with the findings of other evaluations. Young offenders with the fewest needs were more likely to complete the ISSP. Youth with the highest risk scores performed significantly worse than other youths. |

## 3.7. Conclusion

In conclusion, a review of evaluations of surveillance-based intervention programmes suggests that this approach is not effective in assisting offender reintegration and reducing rates of reoffending. In those programmes where initial improvements were demonstrated, these impacts tended to fade over time. This

finding suggests that a surveillance approach, in the absence of complementary treatment and skill set development, is not an effective intervention strategy. Clearly, therefore, less is known about what works with EM in specific offender management contexts such as in South Africa. There is need for more contexts to be explored, learned from, and their range of perspectives and experiences compared to identify important factors or variables when these are poorly understood. The purpose of this socioeconomic analysis therefore, is to generate accurate detailed 'rich' and reliable information for improvement of the EM initiative by the DCS in South Africa. The subsequent chapter presents the literature review as per the objectives of the study.

# CHAPTER 4: LITERATURE REVIEW

## 4.1. Introduction

It is in the period immediately after release that inmates[2] face tremendous personal, economic and social challenges. Accordingly, the White Paper on Corrections in South Africa, released in March 2004, acknowledged the importance of offender reintegration and consequently framed rehabilitation as the core business of the DCS. Further, the White Paper acknowledged that 'corrections' is a 'societal responsibility' in which CSOs, business, and community have a critical role to play (The White Paper on Corrections). In this milieu, it is necessary to ask 'what works' and 'how does it work' in order to provide tools to help understand such notions as crime desistance, (re)integration, trajectories, and intersectionality (i.e., multi-stakeholder collaboration) to successfully reintegrate offenders into the community and avoid relapse into criminal behaviour.

Social integration can contribute to all people with a criminal history managing to develop a sense of belonging to and of cohesion with society (Brunelle et al., 2020). In parallel, it can help reduce the stigmas associated with their entry into the criminal justice system (CJS). To this end, an entire process must be deployed, with paths taken to achieve the goal rarely linear (Brunelle et al., 2020). According to Berard (2015: 5), social and community (re)integration is [*translation*] 'a long-term, multidimensional, individualized adaptation process that is not complete until the person [subject to judicial control] participates in all aspects of life in the society and community where [he/she] is evolving and for which [he/she] has developed a sense of belonging'. Brunelle et al. (2020) assert that this understanding has a broader scope of action than the notion of re-insertion, which, for its part, implies the introduction of a person into a given social setting, but not necessarily a transformation process (Brunelle et al., 2020: 331).

[2] Inmates refers to convicted individuals by a competent court of jurisdiction and served a prison term.

## 4.2. Objective 1

The aim of discussion is to consider EM as an alternative option when considering sentencing or granting bail applications, etc., and suggesting possible amendments to legislation and/or policymaking.

To achieve this objective, an outline of the context and policy environment of EM in South Africa is necessary, which is guided by the following questions:

- Under what conditions does EM operate most effectively as an alternative sentencing option to assist in alleviating overcrowding in correctional centres?
- Under what conditions does EM operate most effectively in parole supervision and in fostering reconciliation between offenders and victims of crime, restoring family relations and equipping offenders with skills necessary for reintegration back into society upon release?

### 4.2.1. Background

The mandate of the DCS is to ensure that all people in South Africa are and feel safe. The Department must ensure that the inmate population is kept in a secure, safe and humane environment. It further has to provide rehabilitation and successful re-integration programmes. This is in line with the Correctional Services Act 111 of 1998 (CSA) as amended; the Criminal Procedure Act 51 of 1977 (CPA) as amended; the 2005 White Paper on Corrections; and the 2014 White Paper on Remand Detention Management in South Africa, which requires the Department to contribute to maintaining and promoting a just, peaceful and safe society. In this context, EM is utilised as an additional condition to parole and not as an alternative or substitute for incarceration, as the CPA does not make provision for it to be a sentencing option. It is therefore necessary to amend the CPA to make provision for EM as an alternative sentencing option.

### 4.2.2. Global experience

EM is widely advocated and implemented across Europe, North America, and Australia at all stages of the criminal justice including at pre-trial, sentencing, early release from prison, and post-sentence. In South Africa, the DCS (2021) aims to ensure that conditions of detention are

safe and secure, and to uphold the human dignity of inmates, the department's personnel and members of the public

Nellis (2015: 9) points out that some countries have developed legislation and policy on the use of EM, while others recently introduced it or planning to do so. Furthermore, while EM in criminal supervision is governed formally by legal, judicial, and political procedures, ethical considerations (especially human rights concerns) inevitably present underlying difficulties. Bulow (2013: 507) contends that in Sweden, offenders sentenced to no more than 6 months in prison can request to have their sentence carried out at home while being closely monitored by an EM device worn around the offender's ankle. Work, education, or therapy are all necessary, and the prisoner can only leave his home according to a timetable that has been approved by non-custodial care officials. This has advantages because incarceration carries threats to family members (financial, psychological, and emotional), particularly spouses and children, as well as the offender.

In Netherlands, judges want EM to be linked to punishment and public protection while policymakers want it to be linked to rehabilitation. Both are valid possibilities, as punishment and rehabilitation are not mutually exclusive, and can serve many functions (Nellis, 2015: 16). In United Kingdom and Wales, The Circular lays out the procedures for using EM in adult bail cases that remain in place. Although there are no minimum or maximum hours, most courts adhere to the customary 12-hour overnight curfew. All adult defendants, whether or not they are charged with custodial charges, are eligible for EM. It is utilized in both circumstances where pre-trial detention is unlikely and cases where pre-trial jail is a distinct possibility (Hucklesby & Holdsworth, 2016: 14). Policymakers will be attracted by the low cost of EM as a direct alternative to a prison sentence, as well as by the use of EM as a means of reducing the length of time spent in custody and to achieve earlier release than would otherwise be possible.

### 4.2.3. Limitations of technology

- *Public risks and risks to the offender:* EM does not render additional offences impossible. An offender determined to commit a crime can cut the ankle strap and, although tampering with the electronic device will set off an alarm, a crime can be committed before the probation staff has arrived. In most discussions on EM there is one risk of harm that has been overlooked, namely, the potential risk of harm to the

offender (Bulow, 2013). The personal avenger who wants to assuage his personal thirst for vengeance might be inclined to do so if the offender is released from custody under an EM programme. However, this risk pertains to any ex-offender, whether or not subject to an EM programme

- *Profit-driven industry:* One might conceive potential ethical problem with EM because this technology is a profit-driven industry. Companies developing EM technology and providing this service are not interested in establishing a criminal justice system that functions well, but rather are governed by prudential reasons.

- *Technological issues and resource implications:* There are issues with the operation of GPS monitoring, including its inability to maintain a continuous signal when there is no clear path between GPS satellites and tracking units. There can also be issues with accuracy when a tag is near water or static for a long period (Bartels & Martinovic, 2017: 85), and 'false alerts', which occur frequently as a result of the technological limitations set out above. Monitoring personnel may find it difficult to ascertain which alerts are false and which ones are real and must be attended to.
- *Ethical and privatisation concerns:* Like Bulow (2013), Bartels & Martinovic (2017) are also concerned about the ethical and privatization issues that come with EM. Ethical concerns relate to the stigmatizing effect of wearing an EM device and lifetime monitoring of offenders' mobility. Research suggests that governments should retain overall control and supervision of offender management, and either prohibit or carefully manage the privatised use of EM.

Given the rising use of EM in some countries, it is necessary to ensure that EM is used in a way that is consistent with the evidence base for good practice. Martinovic (2013: 280-290) emphasized the importance of working collaboratively, sharing information with stakeholders, and, conducting ongoing independent evaluation that informs continual improvement. Only when EM is combined with evidence-based interventions, such as those that address offenders' criminogenic needs and (re)engage them in more pro-social behaviours (Graham & McIvor, 2015; Martinovic, 2013: 283-285), will it be beneficial.

### 4.2.4. Legal and Policy Frameworks

- **White Papers**

The 2005 *White Paper on Corrections in South Africa*[3] arose, crucially, out of a 'need for a long-term strategic policy and operational framework that recognises corrections as a societal responsibility'. It also flowed from the need for the DCS 'to gear all its activities to serve a rehabilitation mission that ensures, through delivery of appropriate programmes, that the people who leave correctional centres have appropriate attitudes and competencies enabling them to successfully integrate back into society as law-abiding and productive citizens' (DCS, 2005: 7).

Equally crucially, the White Paper posits that the 'main challenge' for 'broader society is the restoration of cohesion at both the family and community levels of society. The White Paper positions the family as the primary level and community institutions as the secondary level at which correction must necessarily take place. The degree of dysfunctionality at these levels has to be addressed if the rate of new convictions is to decrease'. The DCS, 'positioning itself as a tertiary level of intervention, is tasked with encouraging these basic societal institutions to recognise their strategic roles in nation-building in general and in correction in particular'. The White Paper thus places the work of the DCS firmly within the country's social milieu, with a fractured past and the damaged present bequeathed to it. Thus, 'correction is not a responsibility limited' to the DCS, but 'is a responsibility shared with society. The role of societal institutions must be visible at all levels where correction is taking place' (DCS, 2005: 8).

With the objectives of rehabilitation and reintegration firmly in view, the *White Paper* declared it was 'underpinned by, but not limited to, the values and rights enshrined in the Constitution' (DCS, 2005: 9). The 2014 *White Paper on Remand Detention Management in South Africa* requires the Department to contribute to maintaining and promoting a just, peaceful and safe society.[4] The 2014 White Paper opens by acknowledging the DCS's critical partners' in its implementation as including several government departments and agencies, viz., the SAPS, the Department of Social Development (DSD), the National Prosecuting Authority (NPA), the

[3] Published in 2006.
[4] Available at: https://www.gov.za/sites/default/files/gcis_document/201607/white-paper-remand-detention-management-south-africaa.pdf.

Department of Justice and Constitutional Development (DoJ&CD), and Legal Aid South Africa (DCS, 2014: 2). The motivation for the 2014 White Paper was the failure of '*The White Paper on Corrections* (2005), with rehabilitation at its centre', laudable and significant though that was, to 'substantially deal with the category of inmates in DCS centres who are not sentenced' (DCS, 2014: 16). The 2014 White Paper noted that, '[s]ince 1995, Remand Detainees (RDs), formerly referred to as Awaiting-Trial Detainees (ATDs), constituted a third of persons detained in DCS facilities. RDs grew from an annual average of 23,783 in 1995 to 48,910 in 2012. This translates to a growth of more than 100% over the period of 14 years; yet, unlike sentenced inmates, they have not been catered for'.

- **Criminal Procedure Act 51 of 1977 (CPA)**

Section 276(1)(h) of the CPA 'Nature of punishments' provides for the imposition of 'correctional supervision', while s.276(1)(i) provides for 'imprisonment from which such a person may be placed under correctional supervision in the discretion of the Commissioner or a parole board'. Section 276(3)(a) further provides that a court may impose 'imprisonment together with correctional supervision', while s.276A provides for the direct imposition of a sentence of correctional supervision, and for the conversion of imprisonment into correctional supervision and *vice versa.*

It is therefore evident that the CPA requires amendment in order to explicitly enable or facilitate EM of offenders. Similarly, the CPA envisages bail for accused persons awaiting trial, but does not provide for the use of EM of accused persons awaiting trial. A plausible explanation for this gap in the law might be that EM entails a level of encroachment and intrusion into the rights to dignity and privacy that might be seen as inappropriate when a person hasn't yet been convicted of any offence. On the other hand, if the loss of freedom is the only alternative, which is a realistic prospect given that many RDs remain in custody because bail is unaffordable, EM may be viewed as a viable and attractive alternative option. Consideration could therefore be given to making explicit provision for EM in respect of accused on bail.

- **Correctional Services Act 111 of 1998 (CSA)**

Similarly, the provisions of the CSA and its subordinate regulations clearly provide for 'alternative' or non-custodial sentences, including subject to electronic monitoring. Section 1 sets the scene by defining "community corrections" to mean 'all non-custodial measures and

forms of supervision applicable to persons who are subject to such measures and supervision in the community and who are under the control of the Department'; "correctional supervision" as 'a form of community corrections contemplated in Chapter VI' of the Act; and "parole" as 'a form of community corrections contemplated in Chapter VI'.

Section 2 'Purpose of correctional system' states that the purpose of the correctional system is to 'contribute to maintaining and protecting a just, peaceful and safe society by—
(*a*) enforcing sentences of the courts in the manner prescribed by this Act;
(*b*) detaining all inmates in safe custody whilst ensuring their human dignity; and
(*c*) promoting the social responsibility and human development of all sentenced offenders'.

Section 41(1) 'Treatment, development and support services' requires DCS to 'provide or give access to as full a range of programmes and activities, including needs-based programmes, as is practicable to meet the educational and training needs of sentenced offenders'. Subsection (5) states that sentenced offenders 'have the right to take part in the programmes and use the services'.

Correctional supervision is envisaged even for dangerous criminals. Section 42(2)(ix) provides for the Case Management Committee at each correctional centre to submit reports to the parole board concerning 'the possible placement under correctional supervision or release of an offender who has been declared a dangerous criminal, in terms of section 286B(4)(b)' of the CPA.

Section 50 'Objectives of community corrections' in Chapter VI of the CSA provides in subsection (1)(*a*) that the objectives of community corrections are—
'(i) to afford *sentenced* offenders an opportunity to serve their *sentences in a non-custodial* manner;
(ii) to enable persons subject to community corrections to lead a socially responsible and crime-free life during the period of their sentence and in future;
(iii) to enable persons subject to community corrections to be *rehabilitated in a manner that best keeps them as an integral part of society*; and
(iv) to enable persons subject to community corrections to be fully integrated into society when they have completed their sentences';

Section 52(1) 'Conditions relating to community corrections' authorises the responsible authority, such as a court, the Correctional Supervision and Parole Board, the National Commissioner or other body which has the statutory authority to do so, to stipulate that community corrections ordered may be 'subject to monitoring'. Section 68(1) 'Monitoring' requires that where a condition of monitoring is set in terms of section 52(1)(p) it must specify the form of monitoring and s.68(2) requires that '[i]f such monitoring involves the use of an electronic or other device it must be prescribed by regulation'. Regulation 28 'Monitoring' of the Correctional Services Regulations (CSR)[5] provides that –

'(1) Electronic monitoring devices must be compact, un-obstructive and allow persons under community corrections as far as possible to carry out their normal daily activities.

(2) The electronic monitoring device must be fitted to the ankle or wrist without causing a risk to the person's health.

(3) Electronic monitoring equipment may be installed in the residence and workplace of the person under community corrections or the victim.'

Therefore, Regulation 28 'Monitoring' of the Correctional Services Regulations (CSR)' quoted above is implicitly in favour or support of EM by focusing on their characteristics and impact outlined in provisions (1), (2), and (3) above.

Chapter VII 'Release from Correctional Centre and Placement Under Correctional Supervision and on Day Parole and Parole' commences with Section 73 'Length and form of sentences', which provides in subsection (4) that in accordance with the provisions of this Chapter 'a *sentenced* offender may be placed under correctional supervision, day parole, parole or medical parole before the expiration of his [or] her term of incarceration'.

In the government's Medium-Term Strategic Framework (MTSF) 2019-2024,[6] one of the identified outcomes of Priority 6: *Social Cohesion and Safer Communities* is the successful social reintegration of offenders (DPME, 2019: 230).

According to the Correctional Services Act (Act 111 of 1998) and Section 62(f) of the Criminal Procedure Act, 1977 (Act no 51 of 1977) the DCS is responsible for the supervision

[5] Government Notice No. R. 323 in *Government Gazette* No. 35277 25 April 2012. Available at: https://www.gov.za/sites/default/files/gcis_document/201409/35277rg9739gon323.pdf.
[6] Available at: https://www.dpme.gov.za/keyfocusareas/outcomesSite/MTSF_2019_2024/2019-2024%20MTSF%20Comprehensive%20Document.pdf.

and control over persons subject to Community Corrections. In particular, Section 62(f) makes provision for the placement of awaiting trial detainees under the supervision of a correctional official as a condition of bail and within objectives of placement options including to: reduce correctional centres overcrowding; avoid pre-trial detention; make room for the accommodation of offenders with serious offences; prevent the contamination of first offenders by hardened criminals; divert awaiting trial juveniles from correctional centres; and, maintain strong family ties and assist offenders to keep their jobs.

For effective implementation of EM, the Heads of Community Corrections are encouraged to be inclusive with all relevant stakeholders such as Justice, SAPS, and community-based organizations to leverage benefits to DCS, offender, family, and community as a whole. For this process to achieve operational objectives offenders must comply with the following minimum requirements to be considered for these placement options:

- Have fixed verifiable address
- Be cared for/be financially independent
- Not pose any risk to the community
- Crimes determined by Justice
- Confirmation of address
- Submission of evaluation reports
    - To courts / prosecutors
    - By correctional officials to courts concerning awaiting trials detainees
- Verification of content of evaluation reports
- Placement of offenders
    - Conditions
- Admission to Community Corrections offices:
    - Effecting conditions set by court
    - Recommendations by supervision committee regarding participation in programmes, performance of other tasks and action in the case of violation
    - Monitoring
- The process of monitoring will entail the offender to:
    - Be physically visited at home, at least once (1) a week
    - Be contacted telephonically at home, at least once (1) a week
    - Be visited / phoned at work at least once (1) a week
    - Be compelled to visit the Community Corrections Offices at least once (1) a month

- Further, the monitoring official will make use of a monitoring list for reporting, highlighting:
    - Date and time of visits
    - Probationers registration number, name, ID, residential and work address
    - Findings / remarks
    - Signature / thumbprint of probationer
    - Signature of monitoring official

### 4.2.5. Selected highlights in the evolution of EM policy and practice

#### (a) Electronic monitoring in community corrections, 2008

In a 2008 presentation 'Status Report Inmate Tracking', DCS identified several objectives of inmate tracking including to: decrease detention cycle time of Awaiting Trial Detainees; optimise the management of facilities and population; assist in security management within the detention facilities; support the following processes – Admissions, Releases, Roll Calls, Bail and Visitations within the broader IJS; and, support detainee scheduling processes. (Slide 19). Only the first objective relates to the broader possibilities of EM that are of relevance for the current study, which is to assess the usefulness of EM outside of the physical custody environment. In the presentation, DCS reported that an evaluation of the Inmate Tracking System pilot project had found that associated Personal Tracking Devices (PTDs) 'are inefficient, non-durable, bulky and therefore unsustainable' (Slides 18, 21, 24) (Appendix D). In addition, '[c]omponent suppliers and procurement [were] difficult to manage' (Slide 24).

The presentation was part of broader presentation 'Electronic Monitoring in Community Corrections (4 March 2008)' to the Parliamentary Portfolio Committee on Justice and Correctional Services. The Department set out its 'Principled Position Statement' indicating that 'Electronic Monitoring [EM] *cannot* be deployed *primarily* to alleviate overcrowding *but [to]* encourage maximum community participation in crime prevention and rehabilitation' and that 'deployment of technology remains *an enabler for improved service delivery*' (Slide 4 [emphasis added]). The presentation noted previous attempts to deploy EM had involved a pilot project in 1999 and a feasibility study in 2004 (Appendix E). The results of the pilot 'supported the usefulness' of EM, showing the comparative cost advantage of EM (R12.82) and incarceration R14.75). However, the feasibility study showed that 'areas potentially covered by [EM] could not match the offender population' (Slide 5). The technology available at the time, including Global Positioning System (GPS) and Global System for Mobile communications (GSM), showed that EM was effective in only 26 % of urban areas and 19% of the rural areas in the country due to the technology's 'reliance on electricity and telephone lines' (Slide 6).

The range of challenges identified included: Lack of electricity and telephone infrastructure; Coverage and reach of ICT infrastructure; At the time, DCS did not have specific budget for

implementation; Offender stigmatisation arising from anklet / bracelet; Public intolerance of people associated with criminal activities; Lack of support systems and residential addresses where offenders can be physically supervised; and, EM does not stop re-offending. If these challenges could be overcome (or mitigated), EM technology can be applied to the following categories of persons: awaiting trial detainees (with or without bail; ATDs), fined offenders, probationers, parolees, day parolees, offenders delivering services to communities, and offenders on occasional leave (Slide 7). The presentation also identified the need to undertake a 'Best Practice review' (Slide 17).

The EM has 'several objectives, including reducing the number of offenders in the overcrowded prison system and mitigating the negative social effects of incarceration, particularly on first-time offenders. It could be used at every stage of the criminal justice process, from pre-trial, through primary sentencing to post-sentence stages' (PC Justice and Correctional Services, 18 November 2015).

The DCS reported that there are several advantages of the EMS over incarceration, viz. it reduces overcrowding in prisons, prevents the negative psychological effects of incarceration on offenders and allows them to maintain employment and family relationships. 'These advantages far outweighed any disadvantages', said the DCS representative. Members expressed concern about the 'technical barriers that might still be standing in the way' of the envisaged full rollout of the EMS, including the DCS's persistent ICT infrastructure problems but also the unavailability of cell phone signal in some regions of the country, and whether this meant that it might not be possible 'to track offenders at all times in all places'. Other concerns expressed included whether the technology was reliable or whether it could be 'interfered with' and 'whether EMS data had been tested as evidence in a court of law' … as even 'speed trap images were not always admitted as evidence'.

The DCS explained that 'the tracking technology could contribute to the prevention of crime' by protecting victims who were issued with a device that, like the offender's tracking device, was monitored from a central control room in Pretoria to track the location of both individuals. 'This allowed the control room to know if the offender was approaching the victim' and 'information from the central control room could be transmitted to local authorities, who could then act appropriately'. The system 'had been shown to work well during the pilot phase', even

in 'deep rural areas'. Even in areas where electricity supply might be unreliable, the tag device could recharge using a solar charger issued with the device. The DCS reported that there had been stakeholder consultations before rolling out the EM and that there was community acceptance of the EM - victims felt safe. Moreover, the DCS confirmed that the tags 'were durable, reliable and reusable'.

### (b) Presentation on the EMS, 2015

In November 2015 the DCS made a presentation on EM to the PC JCS detailing its use of personal identification devices (PIDs). The EM can be used at various stages of the criminal justice system / process, including pre-trial / awaiting trial, as a primary sentencing option and during parole, and is currently available for these purposes. The many advantages of EM were stated (Slide 26) to be –

- It facilitates acceptance by the public and the judiciary of community corrections as a credible and reliable system;
- It reduces overcrowding in correctional centres;
- It saves DCS incarceration costs and building new correctional centres;
- It promotes / ensures compliance with prescribed conditions [i.e. of bail, sentence, probation];
- It prevents the negative psychological effects of incarceration on offenders [including negative learned behaviour from exposure of first-time and low-risk offenders to hardened criminals, Slide 6];
- It promotes rehabilitation and reintegration of offenders;
- It promotes public safety and security through effective supervision [and, thereby, victims' peace of mind];
- It extends the range of remand / sentencing options available to the courts;
- It allows offenders to retain employment and family relationships;
- It assists in addressing offending behaviour by providing community-based rehabilitation [thereby reducing recidivism];
- It enhances non-custodial sentences as an alternative to incarceration; and,
- It reduces the negative influence of custodial sentences on offenders.

The following disadvantages were acknowledged: wearing the EM device has its own psychological effects on offenders; wearing the EM device may stigmatise offenders, limiting their chances of securing employment; and, EM restricts the offender's movements.
However, the DCS commented that it was evident from this narration that the advantages 'far outweigh' the disadvantages of EM (slide 28).

The DCS reported that 'significant progress has been made in advancing social reintegration of offenders through EM', which 'has proven to be economical, effective, efficient and relevant to the broader goals of the DCS and [the] JCPS cluster, such as [the] prevention of crime and promotion of public safety and security' (Slide 32). Any breach of conditions regarding restriction of movement, or any attempt to tamper with a device alerts the control room, which is then able to arrange local rapid response.

### (c) DCS strategic planning report 2018

The Executive Summary of DCS' Strategic Planning Report (2018: 8ff) mentions that the 'Information and Communication Technology (ICT) Branch identified issues such as electronic monitoring and tagging and the mobile technology for *post-release* inmate support as some of the mechanisms being promoted to address overcrowding, while enhancing cost efficiency and effectiveness' [emphasis added].

Section 1 of the Report on pre-conference inputs (DCS, 2018: 12ff) included a brief paragraph on 'Technology and Corrections of the Future' (DCS, 2018: 37ff). Here, DCS' I[C]T Branch indicated that the South African correctional system 'is facing three primary challenges namely, overcrowding, cost and efficiency and effectiveness'. The IT Branch 'identified BI and Smart Analytics Preventing Crime and Alternative Sentencing, Electronic Monitoring and Tagging and Mobile Technology for Post Release Support as some of the mechanisms in addressing these challenges.'

On 'Electronic Monitoring and Tagging' the Report states that the system will pro-actively detect high risk and makes no reference to the possible use of EM for awaiting-trial detainees who might be released on bail.

The '10-Year Outlook for South Africa' the Report indicates several 'relevant factors' that the DCS needs to consider in developing a 10-year plan for IT. Some of the factors include: Overcrowding – to address overcrowding the DCS introduce Smart Data Analytics, as well as

EM of mobile technologies; and, Cost effectiveness – an important to note that corrections are expensive considering the aggregate cost to [sic – 'of'] housing, feeding and guarding inmates. In order to address and reduce / contain these costs, the Department should introduce the Automation of Business Process, the Drone Surveillance and Threat Defence, Corrections as a business, an Integrated Inmate Management System, as well as the implementation of the Smart Facility Monitoring and Cross Agency Collaboration and Integrated Justice System. …' (DCS, 2018: 37) [*emphasis added*].

Section 2 of the Report on 'South Africa in the Next 50 Years (50-Year Trajectory)' (DCS, 2018: 39ff) includes a paragraph on the National Prosecuting Authority (DCS, 2018: 42ff). Here, there is mention of 'The Factors Impacting on Overcrowding of Remand Detainees', which includes a cryptic mention of '[w]arning, bail, supervision by probation officer / correctional official, electronic tagging (pilot) - no addresses or security features for monitoring …'. This appears to be elaborated briefly in a section on 'Initiatives to Reduce Overcrowding', which states that protocols 'that are currently being applied to reduce backlog and overcrowding in Remand Detention Centres [include] Electronic Monitoring Protocol (Tagging).' Although this Strategic Planning Report 2018 purports to look ahead by 50 years, there is no further mention or discussion of EM.

### (d) Procedure manual on supervision in community corrections

The DCS has published a *Procedure Manual on Supervision in Community Corrections* (DCS, n.d.). The purpose of these procedures is to 'give effect to the Social Reintegration Policy by unpacking the policy principles and explaining the processes which are highlighted in the policy', and their scope is notably broad, viz. these procedures 'apply to all persons considered for placement into and those already subjected to the Community Corrections system' (DCS, n.d.: 6). On the 'Implementation of the Correctional Sentence Plan' (DCS, n.d.: 85ff)[7] the Manual provides detailed procedures for various forms of electronic monitoring of incarcerated offenders. Monitoring can take place in terms of the provisions of sections 52, 57, 68 of the CSA. Specifically, monitoring of 'offenders under the system of community corrections must

[7] Unit 6 of the Manual.

be conducted in terms of Section 68' of the CSA, which can include EM where applicable.[8] Notably, repeated reference is made to an 'electronic monitoring procedure manual'.[9]

The Community Corrections Manual provides for the preparation of a 'suitability report' for 'Consideration of Correctional Supervision as a Sentence' (DCS, n.d.: 164ff). The Suitability Report provides for an evaluation / assessment to propose conditions for community corrections in terms of the provisions of Section 52 of the CSA, including EM (DCS, n.d.: 167-8). The Manual also contains guidelines for the 'Compilation of [a] Suitability Report: Consideration of Correctional Supervision as Sentence' (DCS, n.d.: 171ff). The Guidelines include the need to consider the manageability and controllability of the candidate within their community context. This includes an assessment of the 'work environment of the person concerned in terms of his / her work address, period of employment, reliability at work (confirm with employer), frequent job changing, financial position, etc. If the person does not work as a result of circumstances such as unemployment, age, housewife, scholar / student, disability, etc., the reasons must be stated. Also indicate whether the person is cared for or not.' Significantly, '[i]f electronic monitoring is considered, indicate availability of cellular network reception'. In addition, there must be an assessment of the candidate's residential environment, including their residential / physical address, telephone number, whether they lease or own property, whether there is a history of frequent changes of place of residence and specifically within / outside magisterial district, as well as the type of environment, such as urban, semi-rural and / or rural. Again, '[i]f electronic monitoring is considered, indicate availability of cellular network reception'.

### (e) Integrated criminal justice strategy (ICJS), 2017

Tracing progress from the adoption of the 7-Point Plan (2007) to the ICJS (2017), the DoJ&CD gave a presentation to a DCS strategic planning session in 2019 (DoJ&CD, 2019). It noted that Cabinet had approved the development of an Integrated Criminal Justice Strategy (ICJS) in November 2017. The ICJS was 'in response to the need for effective cooperation and integration of initiatives, programmes and plans of the departments and law enforcement agencies under the JCPS cluster in realising the strategic objective of the National Development

[8] Ibid. Para 6.1.1.
[9] For example, ibid. at pg. 89.

Plan' to build safer communities and create a resilient anti-corruption criminal justice system. 'This strategic goal contributes to the realisation of MTEF Outcome 3: All People in South Africa are and Feel Safe' (slide 4).

With reference to Pillar 3 of the ICJS (which focuses on modernisation and process re-engineering to increase efficiencies), the presentation noted that '[o]ut-dated and cumbersome processes continue to compromise the CJS and build inefficiencies at every entry-point across the value chain – there is therefore an irresistible pressure to reform the CJS processes which is also propelled by the 4th Industrial Revolution.' The presentation also observed that modernising the CJS will have benefits for the DCS, including a 'reduction in awaiting trial population and free bed-space for sentenced offenders' (slide 9).

The presentation included a status report on progress in developing and implementing the ICJS, and emphasised that '*We are at the stage of building research capacity across the CJS value chain to implement the identified priorities of the ICJS, which are:*

- *Modernisation, processes re-engineering and legislative reforms to create an effective and efficient CJS that respond[s] to … emerging trends'* (slide 16).

### (f) Judicial Inspectorate of Correctional Services (JICS)

No recent reports by JICS could be found on its website. In its most recent available Annual Report for 2018/19 there is, somewhat surprisingly, no mention of EM.

### (g) DCS strategic plan 2020-2025

The Minister's Foreword to the DCS Strategic Plan 2020-25 states the following: 'With an increasingly complex offender population within a constrained fiscal environment that is further impacted by the COVID-19 pandemic, the Department needs to pursue innovation actively and implement best practices. The Department will test and evaluate new technologies, policies and programmes to increase our capability and deliver a modern, sustainable and evidence-based correctional system. Partnering with tertiary institutions and other non-government institutions will be vital for this. After the immediate danger of COVID-19 subsides, we are going to be looking at radically different world. By tracking, understanding

and learning from the current trends, we will prepare for future challenges and position ourselves to implement new and innovative technology' (DCS, 2020: 8).

'COVID-19 has reduced physical monitoring of offenders within the system of community corrections. High risk offenders have been prioritised for physical monitoring while field calls are conducted for low and medium risk offenders. Low risk and medium risk that are monitored remotely through telephones confirmed by locations and video of the surroundings. In certain circumstances the police and other law enforcement agencies are requested for assistance. The lack of physical monitoring does pose challenges particularly where probation officers are unable to fully verify the facts that have been provided' (DCS, 2020: 89-90).

'The current crisis has accelerated the Department's plans to increase monitoring through alternative means such as through the use of EM. EM seeks variously to reduce number of incarcerated people, monitor compliance, reduce reoffending and support desistance from crime. This form of monitoring can be used pre-trial to reduce the use of remand in custody; used post-conviction as a community sentence (a form of diversion or alternative to a custodial sentence); or used as a form of early release from a correctional centre or parole. Like other community sentences, electronic monitoring is a more cost-effective option to a custodial sentence (DCS, 2020: 90).

'Social distancing is hard to achieve in communities; inside the overcrowded correctional centres, it is almost impossible. Overcrowding obstructs attempts to curb the virus, exacerbates pre-existing health issues and fuels the spread of other diseases such as TB and HIV. Conditions are especially dire in remand detention facilities, which account for approximately 30% of the inmate population, and where remand detainees may wait for months or years for the completion of their trials. The current challenges have increased the need for productive, restorative alternatives to placing people in custody and giving them criminal records — such as community service and a requirement to participate in rehabilitation programmes to address offending behaviour. Reassessing the resort to imprisonment in general and identifying categories of inmates which are at particular risk of being affected by the COVID-19 disease will be essential to curb the continuing inflow of inmates and to accelerate the release of suitable categories of offenders.

'Alternative sentencing options must satisfy the community's requirements for retribution and protection whilst keeping offenders with less serious offences out of correctional centres. Community-based alternatives to imprisonment should be enhanced to reduce the inmate population, promote effective rehabilitation and successful reintegration of offenders into the community. Treatment services and development programmes will need to be included as an important component of community corrections to bring about more permanent changes in the conduct and behaviour of the offender'. Significantly, the Strategic Plan recognises a key condition for successful reintegration, viz. 'community-based alternatives demand a consultative and a genuine partnership with the community'. This community partnership is of particular importance in the case of young offenders, 'many' of whom 'have not been released on parole because they do not have contactable addresses. …' (DCS, 2020: 91).

The Strategic Plan acknowledges the relevance and usefulness of EM in more than one context. 'A monitoring device worn by an inmate, or someone accused of a crime and awaiting trial, offers a number of benefits. Tracked electronically, non-violent offenders could serve their sentences in the community. Electronic tagging, combined with other available data, also improves the monitoring of parolees by parole officers. Using geospatial mapping, parole officers can get real-time data on the location of the offenders in their care, which can help parole officers intervene when necessary, keep offenders on the right track, and potentially prevent reoffending. Furthermore, electronic tagging helps identify which rehabilitation programmes are successful. If certain programmes show particularly high attendance, it could be an indicator (with other data) of the success of that programme' (DCS, 2020: 102-3).

### (h) DCS annual report 2019/20

The Annual Report notes that the Department 'was required to pursue practical innovation and implement best practices to ensure continuous monitoring of offenders as ordered by court' while operating 'under the abnormalities of the COVID-19 pandemic' (DCS, 2021: 28). COVID-19 'reduced physical monitoring of offenders within the system of community corrections'. As a result, high risk offenders were 'prioritised for physical monitoring', while 'low and medium risk offenders were monitored by field calls during lockdown levels five to three. Low risk and medium risk parolees were monitored … telephonically to confirm location and video of the surroundings'. In some 'circumstances the police and other law enforcement

agencies were [asked] for assistance. The lack of physical monitoring does pose challenges particularly where officials are unable to fully verify the facts that have been provided' (DCS, 2021: 29). The crisis 'has accelerated the Department's plans to increase monitoring through alternative means such as EM. Policies on social reintegration, programmes and services require review to include technology that will assist in monitoring of offenders, and engagement with victims and with the community. Monitoring of offenders through technology will enhance physical / traditional monitoring to ensure safer communities' (DCS, 2021: 29). Against this background, it was rather surprising that the DCS' Annual Performance Plan (APP) 2021/22 makes no mention at all of EM, despite extensive mention of use of other electronic measures, such as admission and attendance registers to improve monitoring within correctional centres.

In a presentation by the DCS to the PC JCS on 25 March 2022 regarding the management of absconders from community corrections, it was reported that high rates of absconding are contributing to undermining public confidence in the parole system. It was emphasised that there is a need for communities to appreciate their 'social responsibility' to help support and ensure the 'monitoring, rehabilitation and [social] reintegration of parolees and probationers'. A vital complement to this community involvement, however, remains the need for the DCS to undertake continuous tracing of absconders in order to restore public confidence in community corrections (Slide 20).

To this end, the DCS reiterated that the 'New Electronic Monitoring System (EMS)' is to be implemented. However, 'physical monitoring of offenders under system of community corrections is a human resource intensive task and costly'. The DCS reported that it is 'finalising the process of the development and automation of the new EM solution in order to electronically monitor parolees and various other categories of offenders. The EM will … enable the DCS to have real-time situational awareness of parolees' location once released from a correctional facility. The information will be relayed to a central location for monitoring and decision making in case of contravention of the parole conditions. [Significantly,] the presentation notes that the 'EMS Business Case development is under way in partnership with [the] CSIR' (Slide 19).

## 4.3. Objective 2

This section discusses the experience from the Electronic Monitoring Pilot Project (EMPP) in South Africa from 2012-2014. The aim sought to consolidate what is known about state and non-state stakeholders that need to cooperate for EM to be a success as well as the chains of command within these jurisdictions. Furthermore, special inter-organisational set-up mechanisms will be created and bureaucratic protocols within these stakeholders to respond and monitor situations regarding EM and community engagement and other social aspects to be considered. To achieve this objective, the guiding questions are as follows:

- Under what conditions do key stakeholders and staff in operational functions best perform in implementing EM?
- What is the role of multi-stakeholders in the delivery and performance of EM?

### 4.3.1. Overview of offender management

In the United States (US) incarceration rates are very high in contrast to other countries, and it is not able to detain more than two million people (Glaze, 2011; Paulson, 2013). It [US] accounts for less than 5% of the world's population yet 23% of the world's incarcerated people (Walmsley, 2006). Walmsley also claims that US prisons are overcrowded, contributing to inmate health issues and posing a safety concern to both staff and inmates (Walmsley, 2006). It is often assumed that 95% of those who are incarcerated will be released back into society at some point depending on offenders' states of readiness. (National Re-entry Resource Center, 2012; Paulson, 2013). To aid offenders with an effective return, best practices and research have prompted a larger push for rehabilitation programmes and social reintegration. In addition, when looking at the big picture of corrections and supervision, the US had 7,076,200 persons on probation, parole, or imprisonment in 2010 (Glaze, 2011). Although society has produced and implemented many programmes and initiatives to assist offenders in effectively reintegrating with their communities, some writers contend that there is still much ground to cover inside the correctional facility when it comes to preparing offenders for reintegration (Mellow & Christian, 2008; Paulson, 2013). In addition to individual barriers, Wheeler & Patterson (2008: 2) identified barriers within the system such as an "overburdened parole system and lack of alternative sentencing options and sanctions". Lattimore (2007) also cautions that in order to minimize recidivism, systemic impediments to effective

social reintegration, such as criminal justice, mental health, education, and financial resources must be addressed.

The Constitution mandates the DCS to provide rehabilitation programmes for criminal offenders. The goal of rehabilitation is to address all of the primary contributing causes of offending so that offenders can live a life free of crime after they are released from prison (Murhula & Singh, 2019). According to Sechrest, White, & Brown (1979), rehabilitation is the consequence of any deliberate intervention that reduces an offender's criminal conduct, regardless of whether the reduction is mediated by personality, behaviour, abilities, attitudes, values, or values other factors. It can be derived from the definition that rehabilitation aims to ensure that offenders discontinue their criminal activity. Rehabilitation is the result of a procedure that combines the correction of the offending conduct, human growth, and the promotion of societal responsibility and value, according to Sections 4.2.1 and 4.2.2 of the South African White Paper on Correction. Furthermore, it emphasizes that rehabilitation must be viewed as a whole phenomenon that includes and encourages social responsibility and social justice in order to prevent recidivism (DCS, 2005). According to Balfour (2003), the rehabilitation process entails instilling in offenders, a sense of responsibility for their criminal activities so that they can avoid repeating them. Offenders are urged to gain sound work skills and participate in educational programs as part of the rehabilitation process to facilitate their successful reintegration into society. All rehabilitation programmes include activities aimed at removing the conditions that lead to the offender's criminal behaviour (Balfour, 2003).

The current treatment strategy for enforcing this mandate is based on the Needs-Based Model, which systematically targets dynamic aspects linked to recidivism in the treatment of offenders' criminal behaviours (Murhula & Singh, 2019). The DCS is in charge of providing and implementing needs-based rehabilitation programs for offenders who have been sentenced to prison by a court of law. Psychological therapy, social work services, health services, skill development, and spiritual care are among the programs available. However, ensuring that all offenders are constructively developed and supported while incarcerated is a big task (Murhula & Singh, 2019). However, institutional issues make it difficult for the DCS to simultaneously communicate its moral message and fulfil its legal obligation to rehabilitate offenders. Due to its failure to reduce recidivism, the DCS purpose remains unfulfilled (Murhula & Singh, 2019).

### 4.3.3. Coordination between community corrections agencies and the community

In South Africa a large number of convicted offenders are released from prisons each year and return to their family and communities. While a small percentage of them successfully reintegrate into their communities, many others will commit new crimes and end themselves back in prison (Muntingh, 2005; Murhula & Singh, 2019). This means that rehabilitation programmes offered are ineffective and, according to May & Pitts (2000), are one of the reasons for recurrent offences. All rehabilitation institutions that work under the DCS must provide programmes and activities that satisfy the rehabilitation needs of offenders as outlined in Section 41 (1) of the CSA. The DCS has a significant amount of responsibility under this Act and the White Paper on Rehabilitation because they regard rehabilitation as a right of offenders rather than a conditional luxury dependent on available resources. In essence, rehabilitation programs must ensure that convicted criminals do not return to criminal activity after their release (Muntingh, 2005; Murhula & Singh, 2019). Schoeman (2013), on the other hand, claims that recidivism rates in South Africa are believed to be between 55% and 95%. According to Dissel (2008), recidivism in South Africa would continue to be high since correctional institutes' rehabilitation programs are ineffective or non-existent. As a result, the DCS must improve its strategic approach to offender rehabilitation. Therefore, the section assesses the DCS approach to offenders' rehabilitation, with a key focus on multi-stakeholder collaboration between the DCS, state and non-state actors, and the adoption of EM with the aim of reducing overcrowding in South Africa's correctional centres, avoiding recidivism, and to suggest alternative methods of sentencing.

The DCS views offender rehabilitation as a critical method for reducing recidivism (Siegel, 2005). The CSA and the 2005 White Paper on Corrections serve as inspiration for South African correctional facilities' rehabilitation approaches. The CSA envisions a modern, internationally acceptable correctional centre system based on the 1996 South African Constitution's structure. The creation of a system for treatment, improvement, and support services to improve offenders' rehabilitation is one of the most important features of this Act (Siegel, 2005). The broad standards in Chapter 3 of the Act ensure that all criminals are imprisoned in conditions that respect their human dignity. The most significant component of the stated requirements is that they meet the UN's standard for prisoner treatment, as outlined

in the UN Standard Minimum Rules for the Treatment of Prisoners. These are the prerequisites, according to the DCS (2005, p.52):

*(i) The inclusion of offenders' rights in prison;*

*(ii) Clear policy regarding the use of force and separation of offenders;*

*(iii) Programs for the development, treatment and support of offenders;*

*(iv) Promotion of community involvement in correctional matters;*

*(v) Programs for monitoring offenders after their release; and*

*(vi) Promotion of partnership between the public and the private sector towards the development of correctional centers.*

The White Paper on Corrections was developed out of a need for a long-term strategic policy and operational framework that views correctional actions in prisons as a public obligation. The White Paper (DCS, 2005, p.21) states that the DCS must assess the following needs of offenders after their incarceration:

*(i) The security needs of offenders while taking into consideration their human rights: By determining the security needs of the offender, that offender can be placed under the classification where he or she can cope.*

*(ii) The physical and emotional wellbeing of offenders: Assessing these needs ensures that the Department determines the types of services that have to be provided to an offender to ensure his or her rehabilitation.*

*(iii) Educational and training needs of offenders: The educational capabilities of the offender can be determined, and that offender can be placed on a level that is suitable for him or her. When it comes to training, the potential of the offender can be identified, and an offender will be encouraged to undergo the type of training that is suitable for him or her.*

*(iv) Accommodation needs: Because the state has an obligation to supply suitable accommodation for offenders, assessing them will help determine what is suitable for them.*

*(v) The need for support after the offender has been released: It is the duty of the DCS to ensure that the offender is successfully reintegrated into the community.*

In meeting the offenders' needs as outlined by the White Paper on Corrections, South Africa has two legal alternatives to imprisonment: correctional supervision and parole also known as Community Corrections, which are administered by the Department of Correctional Services. Correctional supervision is a community-based sentence that requires the offender to serve his

or her sentence in the community under the authority and supervision of correctional officials, subject to conditions imposed by the court or the Commissioner of Correctional Services in order to protect the community and avoid recidivism (DCS, 2005). On the other hand, parole refers to the portion of a prison sentence that is served in the community under the supervision and control of correctional officials, subject to conditions imposed by the Commissioner of Correctional Services or his / her delegate (DCS, 2005). Correctional officials in Community Corrections offices across the country are in charge of supervisions of a variety of responsibilities relating to offenders serving part of their terms in their communities. A probationer or parolee may be ordered by the court to conduct community service for a set number of hours at a community service institution such as a hospital, school, old age home, nature conservation programme, or any other appropriate institution which should be of such a character that it benefits the entire community (DCS, 2005). That is, community corrections are the component of offender control that deals with offenders in the community with the aim of "providing services and interventions that will contribute to the reintegration of offenders as law-abiding citizens into communities by ensuring that probationers are rehabilitated, monitored and accepted by communities" (DCS, n.d.).

There are conditions that are normally set for the offenders who are placed out on community supervision and parole, which include: staying under the Department of Correctional Services' supervision until their prison sentence is completed; prohibition of changing residence / employer without the permission of the Head of Community Corrections; not allowed to commit any crimes while on community supervision and parole monitoring; reporting to the Community Corrections Office at regular intervals; participation in specific programmes if required; home confinement during portions of the day / night when the parolee is not working and is required to be at home; and, any other requirements that the Commissioner or his / her delegate may see fit (DCS, 2005). All probationers and parolees are subject to monitoring by correctional officials, temporary correctional officials, or volunteers who are under the jurisdiction of the Head of Community Corrections in order to ensure compliance with the specified conditions as much as feasible (DCS, 2005). Modes of monitoring can include telephone contact at home and at work; visits to the probationer's / parolee's residence; visits to probationer's / parolee's workplace; visits to probationers / parolees at locations where they perform community service; and, mandatory visits by the probationer / parolee to the

Community Corrections Office for consultation purposes. All are used for monitoring purposes. The offender's potential risk to the community determines the degree / category of monitoring (DCS, 2005). There are three types of supervision / monitoring: maximum intensive monitoring, medium intensive monitoring, and minimal monitoring (DCS, 2005). Depending on the probationer's / parolee's satisfactory cooperation, the strictest monitoring category is gradually scaled down to the least stringent category of supervision.

However, it is required that each Community Corrections Office have a discussion forum that meets at least quarterly and includes members of the community in order to involve them in correctional matters, particularly community corrections. These forums are primarily intended to discuss issues related to the imposition and execution of correctional and parole supervision, familiarize the community with Community Corrections' operations, and initiate policy modifications, among other things. Collaborations and coordination between community corrections agencies and the community, including state and non-state actors providing services to offenders and ex-offenders and other community groups, must be well established. Additionally, these sittings are also meant to conscientisation community members about the reintegration of the offenders into their communities, their parole conditions, and also for monitoring purposes (DCS, 2005). However, as noted above, Schoeman (2013) estimates that recidivism rates in South Africa are exceptionally high. There are a variety of causes for these high rates, including a poor rehabilitation approach, resource restrictions and overcrowding in jail facilities, staffing shortages, and a lack of proper assistance for offenders upon release from correctional facilities (Schoeman, 2013; Murhula & Singh, 2019).

Post-release supervision is critical for an offender’s re-entry and social reintegration to be successful. However, supervision entails more than just keeping track of an offender's compliance with the terms of his or her release (Paulson, 2013; United Nations, 2018). It entails assessing the offender’s risk, collecting and/or organizing resources to satisfy the offender’s requirements, and creating and sustaining a human relationship with the offender that fosters trust while keeping appropriate boundaries (Paulson, 2013). Surveillance, education, encouragement, reinforcing positive behaviour, and imposing consequences for undesirable behaviour are all part of supervision. Professionally carried out, it involves at its core aiding the offender's social reintegration but never forgetting the risk of reoffending (United Nations, 2018). In some jurisdictions, electronic monitoring is utilized as part of rigorous supervision.

A meta-analysis of research assessing the influence of EM on the criminal behaviour of moderate- to high-risk offenders found no conclusive evidence that EM is successful in reducing recidivism or is more effective than alternative diversion programmes. It was concluded that EM was most beneficial when used in conjunction with proven therapy strategies (United Nations, 2018). An assessment of Canada's Learning Resources Program yielded some interesting findings. Probationers were given access to individual and group counselling as well as skill development through an EM system. It was discovered that high-risk offenders who were subjected to electronic surveillance and extensive treatment had lower recidivism rates than those who were not. This study is significant because it revealed the efficacy of comprehensive rehabilitation services for high-risk offenders that included both supervision and therapy (Paulson, 2013; United Nations, 2018).

While community organizations play an important role in assisting criminals to reintegrate into society, special techniques are needed to organize and retain community interest and commitment (Paulson, 2013). Communities are not always receptive to the idea of community-based efforts to receive and support ex-offenders, especially in nations with inadequate resources for the general population and restricted access to basic services. The general public has a punitive attitude that makes establishing community-based corrections programmes difficult (United Nations, 2018). CSOs can help keep this problem on the political agenda and fight for change. Some programmes, particularly those that allow criminals to conduct community service or volunteer for the benefit of the community, can be extremely effective in rehabilitating certain types of offenders and raising public awareness. However, such programmes cannot function without the support of the community, and their effectiveness is largely dependent on community members' active participation (Paulson, 2013; United Nations, 2018). Volunteers are an effective tool to engage the community while also providing much-needed assistance and support to offenders. The Tokyo Rules emphasize the importance of volunteers' contributions, particularly when they are properly taught and supervised, as well as the importance of assisting them in many ways. In Kenya, community volunteers play an essential role in providing monitoring and help to offenders on probation and aftercare in rural areas (United Nations, 2018).

### 4.4. Objective 3

The discussion here sought to consolidate what is known about digital technologies in the rehabilitation of offenders, and how technology can foster reconciliation between offenders and victims of crime, restoring family relations and equipping offenders with skills necessary for reintegration into society upon release.

Objective 3 aims to assess the sociological aspects of the use of technology to reintegrate citizens into society, possibly between offenders and their respective communities, families and / or victims (e.g., victim protection, family violence, working devices). To achieve this objective, an assessment of the extent and effectiveness of inclusion of victim and community participation in EM parole or community correction considerations is crucial, and the following are the guiding questions:

- What is role of EM digital technologies in victim empowerment and mediation of victim-offender relationships?
- What is the role of auxiliary social workers in social reintegration initiatives?

#### 4.4.2. The use and barriers of digital technologies in evidence-based initiatives to support a community corrections supervision path to rehabilitation

According to the DCS's strategic planning report (2018), the rationale behind the need to enhance the correctional service's monitoring systems came about due to limitations faced in the DCS's offender management system. The main challenges included overcrowding, high costs as well as the inability to ensure efficiency and effectiveness. In order to address these challenges, the DCS identified smart analytics to preventing crime, and alternative sentencing by introducing EM for pre- and post-release support.

The ways in which to make this programme successful would be to profile offenders according to their likelihood to re-offend. It has been noted that high-risk profiled individuals will be counselled and that monitoring intensity will match profiles. This would be achieved through using business information (BI) and smart analytics to prevent crime, and alternative sentencing. Through the use of EM and tagging, offenders can be monitored in real-time which can not only detect high risk activity, but also monitor compliance and adherence to the programme and associated conditions. There is also a Personal Identification Device (PID),

also known as an ankle bracelet, permanently fitted to monitor adherence to parole or community supervision rules, such as curfew hours, movement restrictions and other regulations. A second phase of devices to be considered would be an alcohol breath analyser, and domestic violence and victim protection devices (CSIR, 2020: 7). Additionally, there would be a use of mobile technology for post-release support. The system uses positive reinforcement by rewarding good behaviour through redeemable badges and tokens for privileges. This method has a high success rate, especially for offenders struggling with substance abuse. The next proposed method is E-Scheduling of inmate visits, which will not only better manage visitations but also gather data important for investigation, especially for organised crime or gang management, which can be achieved through video-conferencing and inmate telephone systems. Other advancements would include digital inmate education and engagement platforms which provides opportunities for sharing education and social norm reinforcement content, enables formal education and e-learning, linking inmate behaviour to a rewards system e.g. incentives attained for good behaviour or programme compliance (DCS, 2020).

According to the DCS White Paper (2006: 71) social reintegration does not start once offenders leave the correctional centre, or at the point that they leave the care of the DCS. The preparation for the social integration of offenders commences upon their admission into the care of the DCS and carries on throughout the duration that they are under the care of the Department. The social integration of offenders will also be a continuous and important part of their correctional sentence plan. The main objective with the after-care plan is to rebuild and nurture the relationships between offenders and their victims, the communities of the victims, the communities of origin of the offenders, and society at large. There is a need for technology to improve health care telemedicine, to enable trainee and qualified doctors, psychiatrists and specialists who would provide services remotely while promoting the use of smart wearables in an effort to support enhanced, ongoing monitoring of health. Additionally, the DCS would have its own internal business process mapping and automation project to showcase innovation, improvements and new efficiencies, as well as the automation of low-value activities that aims to free the workforce to focus on high-value activities. Furthermore, by having an Inmate Management System (IMS) from point of incarceration to time of release alongside the use of biometrics ensures efficient identity tracking. There would also be drone surveillance and smart

facility monitoring such as CCTV installations to give automated alerts about high-risk activities, while the drones would enable effective patrolling of the DCS facilities (DCS, 2020).

The provision of secure correctional facilities and effective monitoring of people on probation, parole or under community corrections is of top priority to the Department as it is the pinnacle of public safety. The country's human rights culture also requires that correctional centres should be safe environments, where the safety of inmates, staff and visitors is prioritised. Safe and secure incarceration creates an environment in which the state and its partners are able to make structured interventions into the lives of members of society who have broken the law (DCS, 2006). Challenges that arise can be overcome by the provision of quality, sustainable and responsive rehabilitation programmes in tandem with skills training and development interventions to enable offenders to successfully re-integrate into society as socially responsible and moral citizens.

### 4.4.3. Shortcomings with the use of technologies

There are some factors to be considered with some of the technologies proposed. Firstly, the PID is useful in tracking the offenders' movement and limiting the distance they can travel; however, it does not monitor or restrict behaviour. This means that crimes can still be committed by the offender within their geographical location and this should be of great concern, especially with crimes such as sexual offences. Secondly, the notion of using positive reinforcement for compliance might cause an indistinguishable line between offenders who are truly reformed, and those who comply only for the advantages. This possibility begs the question of whether compliance would continue once they are reintegrated into society without a rewards system. Thirdly and lastly, the idea of drones and CCTV is also welcome. However, there should be backup measures in place for when the system is down or undergoing maintenance. CCTV systems are also known to have 'blind spots' or limits to their range of movement and coverage. While this limitation could be partly overcome when used in tandem with drone surveillance, there is a risk of offenders studying and becoming able to predict routine drone movements.

- **Upgrading technology and parole structure**

At the rate at which technology is advancing, the DSC should also be adapting and upgrading its facilities. This means that consideration should be given to the continuing professional

development of employees, which should be integrated into career planning in a suitable manner. As part of the integration back into society, there should be assistance to identify work opportunities for parolees to keep them occupied and productive, and less inclined to deviant behaviour.

- **Partners / stakeholders**

There should be an international benchmark on best practice as well as an engagement plan by the DCS which would also initiate bilateral engagements with relevant stakeholders (CSIR, 2020: 11). It has been noted that there was hesitancy from stakeholders to buy-in on the EM pilot project. The stakeholders mentioned include the South African Police Services, National Prosecuting Authority, Department of Health, Independent Communications Authority of South Africa, South African Bureau of Standards, State IT Agency, ESKOM and PSIRRA. This hesitancy, if unaddressed, may continue to prove to be an obstacle to the DCS's plans, as these bodies have various forms of authority and control over heath equipment needed, electronics, load shedding that could affect the EM control centre, endorsements and even certifications of EM equipment norms and standards.

- **Resources**

There are barriers relating to service providers pertaining to costing and invoicing, as well as insufficient resources available to the state. For the project to work at a large scale, relevant expertise is also needed. The complexity of the EM solution needs adequate training at both the operational and policy development levels, as well as reliable support with the installation and maintenance of IT infrastructure and operations (CSIR, 2020). There have also been challenges experienced with conflicting government policies, procedures and management coordination, which needs to be reviewed by the DCS. Following the review, policies should be aligned in such a manner that they aim to achieve the same objective (DCS, 2018).

### 4.4.4. Digital technologies in South Africa, reconciliation between offenders, victims of crime, and restoring family relations

EM has an impact on offenders' lives, including their relationships with their spouses, significant others, children, wider family and friends. Some offenders report that EM helped them to improve their relationships because it enabled them to spend more 'quality time' with significant others and strengthen bonds or rebuild relationships after spending time in prison

(Gibbs & King, 2003). In light of this, EM has had positive impacts in restoring relations between offenders and their families. Further, it has made it possible for incarcerated parents to resume roles such as child care. For example, a participant in their study conducted in Florida USA, highlighted the importance of being able to take her children to school. Likewise, Richter et al. (2020) have reported similar accounts about the importance of synchronizing EM with family duties. However, while EM can be a means to maintain relationships and, for instance, to care for family members and particularly for children (Arenas, 2019), EM can also negatively affect social relationships. For example, several scholars (Gibbs and King, 2003; King & Gibbs, 2003; Vanhaelemeesch et al., 2014) have also reported the ways in which EM led to increased tension and arguments between offenders and family members because the former spends too much time at home and oftentimes becomes a burden on family members. In addition, Kilgore et al. (2013) indicate that male offenders who come from a hyper-masculine prison context often need to adapt to a female-led household, which accentuates other gendered problems.

Security issues and repeat victimization have often been raised with the use of EM of offenders on parole. However, real-time EM systems have shifted from offender-orientation towards increased focus on victim's needs, particularly their rights, voice and safety. Paterson, (2015) points out that these systems have actualised notions of victim safety and strengthened mechanisms for building resilience. At the same time, the author argues that emphasis is placed on individual well-being, positive social identity and inter-personal relationships for the offender and the victim. Erez & Ibarra's (2007) evaluation of real-time EM systems in the United States pointed to positive impacts on how victims interpret their own safety once a programme has been initiated that validates and respects their safety concerns. The authors argue that this includes the positive influence of criminal justice personnel engaging directly with victims and recognizing their right to protection. In turn, this illuminates the critical role played by corrections personnel and other professionals in ensuring that positive relationships are built and nurtured to support recovery. For Paterson (2015: 158) "this increasingly victim-oriented approach has the potential to re-configure how individuals identify with and function in social spaces as their confidence and resilience is re-built in the absence of physical threat".

EM can further lead to unfavourable working conditions. For instance, EM often generates restrictions and related monitoring that can potentially interfere with employment-related requirements. Several offenders rated work-related problems higher than they did restrictions related to drug use (e.g., mandatory drug or alcohol tests), disruptiveness (e.g., interruption of sleep by check-in calls) and privacy issues (e.g. limits to the length of phone conversations) (Richter, Ryser & Hostettler, 2021). Whilst, others mentioned that alterations in the work schedule (having to work outside) concerned them because their employers would have to provide verification to their probation officers (Richter, Ryser & Hostettler, 2021). As an alternative form to imprisonment, EM constitutes a promising form of punishment. However, it should be clear that there are several ethical concerns that need to be acknowledged and addressed when this technology is scaled up for wider use in the CJS (Bulow, 2014: 516).

The increased understanding of the psychological dimensions of the environment for crime has had a transformative impact upon the use of EM technologies. Surveillance technologies such as EM, biometrics, and CCTV have thrived in commercial environments that market the benefits of social technologies managing disorderly behaviour and which, despite crime prevention promises, appeal to the ontologically insecure social imagination (Belur et al., 2020). The growth of EM primarily as a control measure in criminal justice systems has taken place despite evidence that it operates even more effectively to protect the public and to reduce recidivism. Innovative developments in countries like Portugal, Argentina and the United States have re-imagined EM technologies as more personalised devices that can support victims rather than control offenders (Belur et al., 2020).

Other studies found both positive and negative aspects of other forms of detention or house arrest. Some of the negative aspects include difficulty sleeping, damaged relationships with family members and friends, and feelings of stress among those under supervision, which can lead to further criminal offences (Chamiel & Walsh, 2018: 4383). Some of the positive aspects include the prevention of socialisation with “hardened” criminals in prison, maintaining of a healthy family life, continuation of regular work, allowance for more intensive supervision and surveillance by the authorities, and has enabled the integration into a more normalised and normative lifestyle (Chamiel & Walsh, 2018: 4383).

Another common alternative to jail in many jurisdictions were 'signalling house arrest devices' in support of house arrest orders, which require someone to remain within a certain number of feet of their home. Enforcing these orders, prior to certain electronic supervision tools, became so time-consuming that monitoring an offender all day was close to impossible. Numerous experiments through the 1960s and 1970s led to the development of the continuous signalling home arrest devices that rely on radio frequency transmission (Alexandru, 2017: 609). Another digital technology was the mobile monitoring device, which is a type of continuous signalling technology. Officers or other authorities use a portable device that can be hand-held or used in a vehicle with a roof-mounted antenna. When within 200 (67 meters) to 800 feet (267 meters) of an offender's ankle or wrist transmitter – and sometimes more than 1,000 feet (333 meters) depending on the location and the use of special antennas – the portable device can detect the radio signals of the transmitter (DeMichele & Payne, 2009). It can also determine the tamper status and battery status of the transmitter. Moreover, officers can conduct field surveillance of offenders even when they are away from the receiver units in their homes (De Michele & Payne, 2009: 30).

Lastly, the Location Tracking Systems is another form of digital technology to monitor offenders by using the Global Positioning System (GPS) to monitor offenders, especially sex offenders. There have been several sexual-related offences perpetrated against children that led to public campaigns for EM to become more restrictive with sex offenders (Button, DeMichele, & Payne, 2007). One of the first sex offender GPS laws was passed in Florida in 2005, following the brutal killing of Jessica Lunsford. The Florida law required lifetime GPS monitoring after a long prison term for adults convicted of sexual related crimes against a child. Subsequently, many laws have been passed at the local, state, and federal levels that require some amount of GPS monitoring for sex offenders (Button, DeMichele, & Payne, 2007).

### 4.5. Objective 4

For the purposes of this study based on the TOR, the focus of examination is on a cost-benefit analysis involving a comprehensive economic evaluation of all the costs and benefits associated with EM, including financial, environmental and social, and in terms of productivity. This approach places benefits and costs in comparable terms, usually Rands. Benefits that cannot be expressed in Rand terms cannot be compared and are included only for discussion. This would include such issues as the costs involved with these operational measures versus the existing costs without EM and a quantification on some normalized scale of the benefits (e.g., Rand value for benefits of integration of offenders, psychological impacts, etc., versus costs of offenders on EM perpetrating acts of huge consequences). With Objective 4 to assess the financial perspective taking into account the socio-economic considerations of implementing versus not implementing EM, it is also important to assess the effectiveness, efficiency and appropriateness of EM in ensuring that the inmate population is kept in a secure, safe and humane environment, as well as its contribution to reconciliation between offenders and victims of crime, and family relations that are restored, and offenders equipped with skills necessary for reintegration into society upon release. The guiding question in this regard is: What is the value of EM programme, and the most economic use of resources?

#### 4.5.2. Supporting preconditions for EM

The literature on EM of offenders shows that there are several case studies in which evidence indicates that in some instances, with several supporting preconditions, these systems have been implemented successfully in some contexts and jurisdictions, with very few issues of concern being reported. However, depending on the context and the purpose of the EM system, some implementation processes have experienced technical and administrative hurdles such as lack of signal coverage, false activations and incorrect readings (Roman et al., 2012). For instance, research from Germany has shown that, on average, there were false activations every three days for each offender registered on the EM programme. Similar challenges have been reported in Spain where findings highlighted the failures of GPS monitoring systems when offenders used underground transport systems (Smeth et al., 2019). The complexity of the EM technologies and the need for the devices to be constantly worn by offenders has also been found to be an issue that contributes to costs, depending on the reliability and durability of the devices. The successful role of EM programmes requires a mix of interrelated support and

enabling factors, some of which may even be pre-conditional to ensuring success in implementation and achievement of desired outcomes.

Many would argue that the cost of EM programmes is more likely to be cost-effective compared to incarceration, but this is dependent on additional interrelated factors. Some of the factors that would have bearing on the costs of an EM programme include (Smeth et al., 2019):

- The nature of the technology that the EM relies on – Radio Frequency (RF) versus GPS;
- The purchase and maintenance costs of each EM device;
- The number of offenders on the EM programme and their geographic spread;
- RF/GPS network penetration and the service provider costs;
- Additional resources (personnel, supervision and equipment) required to effectively execute the monitoring of offenders;
- The complexity and diversity of the data collected, analyses thereof and its use;
- Administrative and court-related processes;
- The intensity of supervision and support required to ensure offender compliance; and,
- Regularity of infrastructure maintenance and upgrade costs as technology improves, among others.

From the literature reviewed, there is no existing meta-systematic evaluation on the costs associated with EM programmes in developing countries or on the African continent. South Africa appears to be the only country on the African continent to be implementing or considering implementing an EM programme for offenders. This creates an opportunity for the DCS to assess the costs and benefits associated with the programme and compare these with those of a traditional offender incarceration and management programme. What follows is a list of non-monetary benefits and costs from the international and South African literature (where applicable) associated with implementing an EM programme:

### (a) Reduced prison populations

One major advantage of EM is a decrease in prison populations and overcrowding. EM can potentially reduce prison populations when used as an alternative to incarceration, freeing up

bed space and the number of inmates managed by DCS officials (Black & Smith, 2003). Monitoring fewer incarcerated offenders also means cost savings from not having to build additional correctional centres.

### (b) Correctional officials will have less contact with offenders

Where EM is effectively implemented for the purposes of monitoring inmates outside of correctional centres, it can reduce the amount of contact time correctional officials need to have with each offender. Using EM in this way will reduce the time processes taken to monitor inmates on a regular basis because systems would be digitised. This can lead to better allocation of available (and often limited) budgets, yielding efficiency and effectiveness gains for DCS.

### (c) Recidivism

Repeated criminal behaviour after conviction, punishment, rehabilitation and being released from prison is referred to as recidivism. Recidivists (repeat offenders) are also referred to as habitual offenders, offenders who have been convicted of more than two crimes i.e., who have been "habitually" involved in criminal behaviour. Increased recidivism means an increase in prison populations because rehabilitated offenders re-enter the prison system (Regan, 2017). There is no clear evidence in the literature on the positive relationship between the use of EM and recidivism (Regan, 2017). According to some findings, EM holds little merit in improving recidivism outcomes (Regan, 2017).

However, it must be noted that these findings may have been subject to error due to small sample sizes and restrictive inclusion criteria (Regan, 2017). By contrast, a report using data collected over a ten-year period from 1993 to 2003 published by the State of Florida in the United Sates, found after following-up two years later, offenders who participated in the EM programme were less likely to commit a new crime (2.8%; 9.8%), have a double possibility of committing a new offense (1.3%; 3.5%) and less than three times likely to abscond (7.0%; 16.1%) than those under community supervision, respectively (Florida Department of Corrections, 2003; Regan, 2017). The positive link between EM and recidivism may have less to do with the monitoring system and more to do with other influencing factors, i.e., the risk level of the offender and how long they are monitored (Regan, 2017). Additional research must be conducted to strengthen the body of evidence of causality between EM and recidivism.

### (d) Improved rehabilitation and integration into society

Monitoring offenders using EM rather than incarceration enhances family stability (especially for offenders with children) and community involvement in rehabilitation (BI Incorporated, 2021). Offenders will be placed closer to their families and be provided with the necessary support systems. However, this might come with stigma from wearing the ankle bracelet and public intolerance from community members against having offenders allowed to live "free".

### (e) Improved physical and mental health of offenders

Using EM to undertake surveillance and monitoring of parolees, probationers and detainees awaiting trial assists in preventing them from experiencing negative psychological effects from being (re)incarcerated. Offenders will be able to remain in their communities and be in close contact with their families alleviating the psychological strain that comes with being confined (BI Incorporated, 2021). According to 2015 statistics, 40% of unnatural deaths nationally are due to suicides in correctional centres, numbers that have probably increased since then (du Preez, Steyn & Booyens, 2015). Offenders are also more likely able to access better healthcare, nutrition, and other basic resources outside correctional centres (BI Incorporated, 2021).

### (f) Reduced incidences of in-prison violence

Depending on the conceptualisation and implementation of EM, it can be used in various ways to protect prisoners themselves. In instances where EM has been used to monitor low risk offenders outside of correctional facilities it can potentially decrease prison populations and protect offenders who may otherwise have been victims of physical and / or sexual violence. Dire conditions and overcrowding have resulted in higher rates of sexual violence and disease transmission in prisons (SafersSpaces, 2022). Research shows that the global prevalence of HIV and TB are higher in prisons than in general society (Dolan et al., 2016). The HIV and TB prevalence in prisons in South Africa is estimated at 15.6% and 5.6%, respectively, higher than national statistics (Kamarulzaman et al., 2016). Decreasing prison populations with the aid of EM will then potentially lower cases of physical and sexual violence, lower HIV and TB transmissions and protect offenders who would have been victims of in-prison crimes. Alternatively, it can be used to monitor offenders in correctional facilities, tracing them back to the exact place an in-prison incident has taken place.

### (g) Protect victims from their offenders

Another way EM can be used is to protect victims from their offenders. Gender-Based Violence (GBV) against women and children is prevalent in South Africa. EM can be used to protect victims from their offenders by prohibiting them from coming within a certain distance of their victim(s). Authorities will then be notified when an offender has violated this restriction (SAnews, 2013). An example of this is Proposition 83 in California, Diego County, which mandates the lifelong supervision of sex offenders using GPS monitoring. The law stems from *Jessica's Law* a version of which most States in the US have adopted to re-introduce sex offenders back into society (Chamberlain et al., 2020). Each State has different registration requirements, residency restrictions and require the use of EM to monitor offenders' movements within the community. Examples of such restrictions include not living more than 0.61 km from a school or park, lifelong GPS supervision and, in some instances, communities being notified of the presence of a sex offender (Chamberlain et al., 2020).

It is important to keep in mind, especially in South Africa, the propensity for corruption in all forms, from corrupt police officials to offenders trying to jam, block or spoof the system (Jackson et al., 2015). There will also be need for amendment to existing laws and policies aimed primarily at protecting victims of GBV rather than putting them at even greater risk by allowing the release of their offender (Chamberlain et al., 2020). Implementing EM in this way will also mean an increase in administrative efforts and supervision (Chamberlain et al., 2020). Although in theory there is opportunity to use technology for the greater good, ample consideration must be given to using EM in this way.

### (h) Administration and operation

Even though EM is a digitised system, it continues to require substantial human oversight, and technological and administration requirements. As per previous pilots, it is critical for local management and staff to be involved in the implementation of EM. Digitised supervision does not mean the absence of administration efforts. Depending on how the programme is designed and rolled out, administrative tasks may even increase, especially if used outside of correctional centres (Chamberlain et al., 2020). Using EM outside the prison system may also prove challenging when trying to link offenders with a physical address or a suitable place to stay

while being monitored. Information Communication Technology (ICT) infrastructure coverage and reach is also vital together with a stable electricity supply, systems that are to some extent lacking in South Africa.

### 4.6. Conclusion

Under the umbrella concept of community-based corrections, numerous interventions are utilized globally in order to place offenders into the community to serve their sentences. These offenders are typically non-violent, low-level criminals. The idea behind "non-custodial" community-based corrections is that successful rehabilitation of offenders can be achieved only in the real world. Moreover, the policies behind community corrections are that offenders will subsequently return to the real world, so it is appropriate to try and provide rehabilitation in the community. By "custodial" we denote any sanction where offenders are deprived of a substantial degree of freedom of movement, i.e. placed in a closed residential setting not their home, no matter whether they are allowed to leave these premises during the day or over weekends. Thus, jails and remand centres would be considered "custodial" settings according to the definition adopted here. By "non-custodial", we mean any form of sanction that does not involve any substantial deprivation of liberty, such as community work, electronic monitoring, financial or suspended custodial sanctions. Thus, the category of non-custodial sanctions includes a great variety of punishments that have in common leaving the offender in the community rather than putting him/her into confinement. The succeeding chapter presents the empirical results of the study.

# CHAPTER 5: DATA ANALYSIS AND PRESENTATION OF RESULTS

## 5.1. Introduction

Correctional supervision is a community-based sentence which is served by the offender in the community, subject to conditions which have been set by the CSPB. Probationers and Parolees serve their sentences in the community under the control and supervision of the DCS. These offenders are exposed to the normal influences of the community and are able to care for their families. Currently, DCS is committed to effective management of probationers and parolees under the system of community corrections to ensure that they comply with their parole and supervision conditions without violations. Credibility in the community corrections system can be obtained by setting appropriate conditions for offenders, swiftly acting on non-compliance, and applying punitive options for non-compliance. Currently, there are 218 fully-fledged community corrections offices which provide for effective monitoring and supervision of offenders under the system of community corrections. In addition, probationers, parolees and ATPs serving their sentences under the system of community corrections are provided with access to a wide range of support services and programmes at these offices. There are 958 service points established nationally through partnerships with external stakeholders to enhance the accessibility of community corrections services for parolees and probationers. However, the implementation of the community corrections system is not without challenges which may hamper successful implementation of EM.

Starting with the presentation of the demographic data of the participants, the section will also empirically answer the following questions:

- What would be the uses, purposes and impact of EM in South Africa?
- What EM technologies and procedures would be effective in South Africa?
- Are there legal safeguards protecting the human rights of the offender under EM?
- Will EM contribute successfully to a reduction of the prison population?
- Will EM enable the offence-related needs of the offender to be met?
- Will EM be a cost-effective tool for social reintegration of offenders?
- Will EM contribute to the reduction of crime in the community?

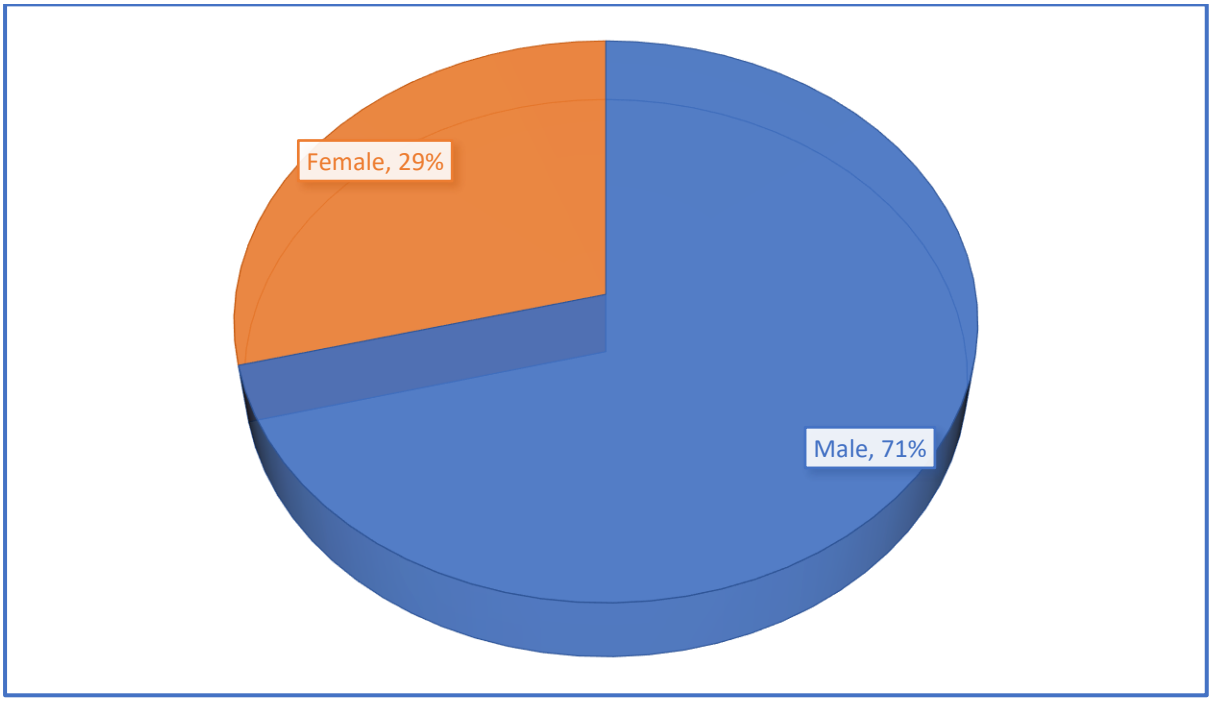
## 5.2. Demographic data of the participants of the study

This section consists of five subsections which provide a brief background of the participants of the study with a focus on their gender, race, age ranges, current position, as well as the period of time that they have been in their current position.

### 5.2.1. Gender

Both females and males' officials from the DCS and external organizations involved in offender management system with the selected 3 regions had an equal chance of participating in the study. From the findings, the gender distribution of the participants of the study comprises 29% of female participants with the majority of 71% constituting male participants (Figure 5.1). This skewed gender distribution suggests that the majority of the DCS employees and those of the institutions assisting with the offender management system for social reintegration and rehabilitation may be dominated by men.

**Figure 5.1: Gender of respondents**




However, the distribution could reflect the offenders' male-female ratio, which suggests that there are more incarcerated male offenders than female offenders across the selected regions. Of the 29% and 71% of the female and male participants, respectively, across the sampled

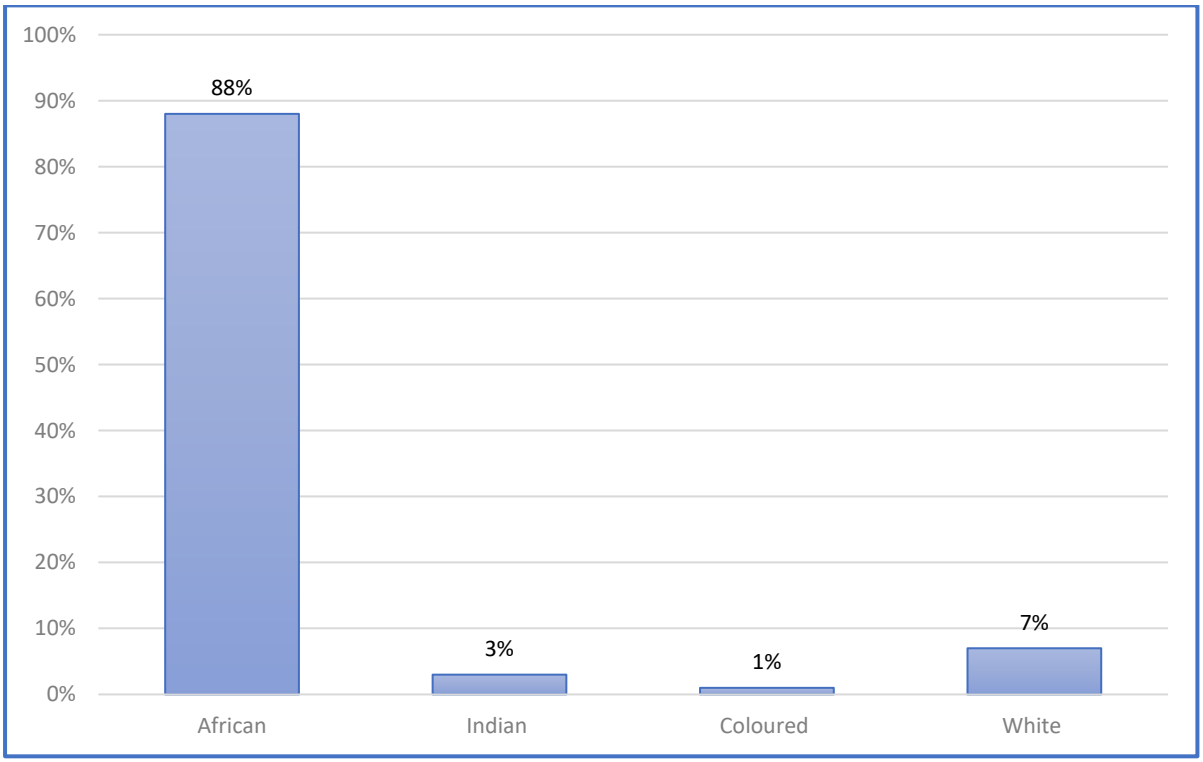
regions, 10 females and 9 males were in the LMN Region; 4 females and 23 males in the KZN Region; and there were 4 females and 9 males in the Gauteng Region. That is, 18 women and 41 males participated in the study, totaling 59 participants.

### 5.2.2. Race

The collection of racial data in this study was critical for the generalizability of results and for providing equal opportunities to all people who may benefit from participation. Generally, race is a useful and important classification tool to describe and potentially interrogate findings' differences and similarities.

Across the 3 sampled regions, the findings revealed that 88% of respondents were African, followed by the Whites who constituted 7% of the participants in Gauteng and KZN and LMN regions (Figure 5.2).

**Figure 5.2: Respondents' race**



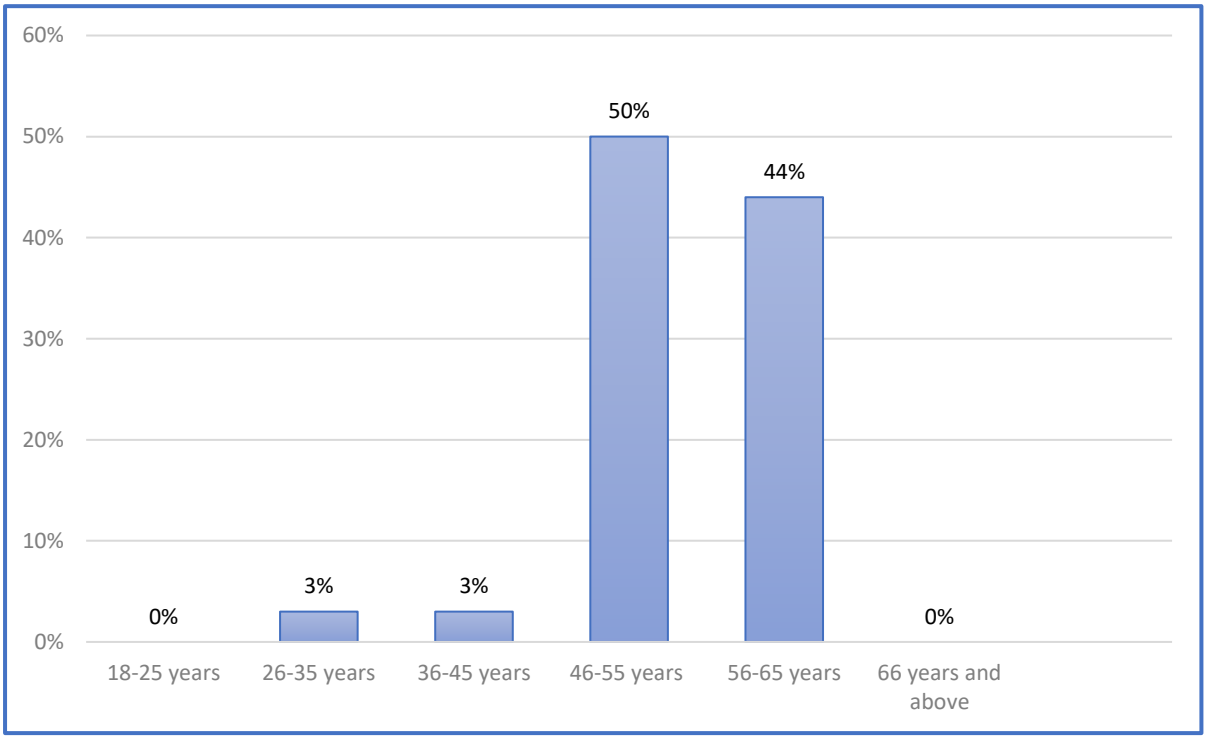

The Indian and Coloured racial groups constituted only 3% and 1% of the total respondents, respectively. These findings suggest that the large majority of those involved in the offender

management system in South Africa, including social reintegration and rehabilitation of offenders, are African.

### 5.2.3. Age

The participants in the study across the 3 selected regions were aged between 26 and 65 years. The majority of the respondents, which makes up 50% of the total participants, were aged between 46-55 years, while 44% were 56-65 years old (Figure 5.3). Both 26-35 years and 36-45 years ranges constituted 3% of the participants each. There were no participants who were over the age of 65 years.

**Figure 5.3: Respondents' age ranges**




Seemingly, 94% of the participants are adults and those who will be soon going on pension. The findings suggest that the majority of the personnel working in the offender management system in South Africa are mostly of more mature years. Although there are officials aged between 26-35 years and 36-45 years, they only make up 6 % of the total population of participants, constituting 3% each. The study finds this a risk in lack of continuity at senior management levels, with most officials at senior levels hovering in the age range of 55+ years old.

### 5.2.4. Current position

There are a variety of positions which are held by the participants, both from DCS and its external stakeholders. However, the majority of participants across the selected regions held the Head of Community Corrections position. A total number of 14 participants were Head: Community Corrections across the 3 selected regions of the DCS, with most of the positions represented by one official (Table 5.1). The only external stakeholders who participated in the study were from Legal Aid South Africa, UNISA and UKZN.

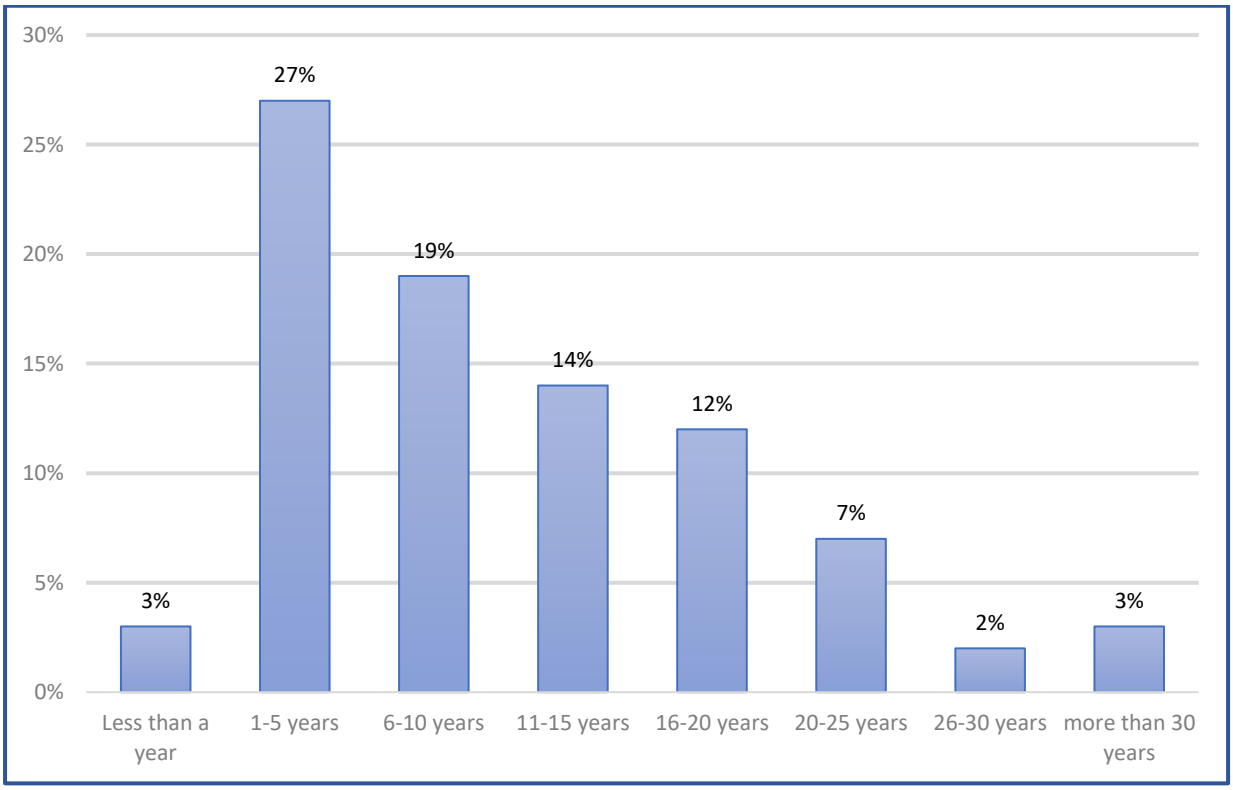
**Table 5.1: Current position of respondents**

| Name of Position | No of Officials | Name of Position | No of Officials |
|---|---|---|---|
| Admissions and Release Officer | 1 | Human Resource Administrator | 1 |
| Area Commissioner | 1 | Manager Admissions and Releases | 1 |
| Acting Area Commissioner | 1 | Manager Corrections | 3 |
| Acting Regional Commissioner | 1 | Manager Facilities | 1 |
| Area Coordinator, Social Reintegration | 1 | Manager Facilities and Services | 1 |
| Area Coordinator Facilities and Services | 1 | Manager Security | 1 |
| Assistant Unit Manager + Reintegration Case Management Supervisor | 1 | Reintegration Case Management Supervisor | 4 |
| Centre Staff Support | 1 | Reintegration Case Officer | 2 |
| CMC Secretary | 1 | RD Unit Manager | 1 |
| Community Corrections Admin Clerk | 1 | SAO-Security | 1 |
| Correctional Officer RCMS | 1 | Social Worker | 1 |
| CSPB Clerk | 1 | Unit Manager | 2 |
| CSPB Chairperson | 2 | Unit Supervisor | 1 |
| CSPB Secretary | 4 | Legal Aid SA, Supervisory Legal Practitioner | 1 |
| Divisional Head Security | 1 | Legal Aid SA, High Court manager | 1 |
| Head Community Corrections | 14 | UKZN, Lecturer | 1 |
| Head of Correctional Centre | 1 | UNISA, Senior Lecturer | 1 |
| Human Resources | 1 | | |

### 5.2.5. Duration in the current position

In addition to providing their positions, the participants were requested to also provide the duration of their occupancy of their current position. The findings reveal that 27% of the respondents, which make up the majority of the sample population, have been in their positions for 1-5 years, followed by 19% for those who spent 6-10 years in their current position (Figure 5.4).

**Figure 5.4: Duration in the current position**




Significant percentages of participants of 14% and 12% have held their positions for 11-15 years and 16-20 years, respectively. Only 3% of the participants have been on their positions for less than a year and more than 30 years, respectively. That is, the findings of the study suggest that officials are more likely to spend 1-20 years in the same position with limited chances of spending over 20 years in one position.

### 5.3. The uses, purposes and impact of EM in South Africa

Generally, the respondents indicated that EM is used to ensure that offenders comply with the terms of their parole and do not abscond from their social reintegration and rehabilitation activities as prescribed by parole boards. Some respondents expressed difficulty in understanding the uses and purposes of EM given that it was only implemented for a short period and its impact could not even be realised. However, to realise its impact, the active involvement of multiple stakeholders has been suggested by most of the respondents. The suggested stakeholders include and the DoJ&CD, the Judiciary, SAPS, the traditional leaders in the community, DSD, SAPS, CSOs, DHA, NICRO, municipalities and civic organizations.

Given the high rates of absconding from the corrections system, some respondents indicated that EM can be effectively used to monitor offenders and ensure that they do not abscond from the system and its responsibilities, in addition to reducing overcrowding in correctional centres. Accordingly, absconding is a serious problem and concern for majority of the respondents. One respondent indicated that:

"*in my region we have +/- 8000 absconders, offenders who have disappeared from the system and over 2000 of these is in our facilities but not being picked up. There are 3 types of absconders: a) Parolee who have done half sentence; ( b) pre-trial suspect; (c) awaiting trial persons…for example, you remember the Rosettenville case of armed robbers and police shooting - one was a parolee from our region who had absconded and gone missing*". Another respondent alluded that "*our biggest problem is absconding and offenders who don't have ID. I wish Department of Home Affairs can come to all prisons and provide inmates with ID. Many absconders don't have ID so it is difficult to trace the offenders on parole once they abscond, e.g., most absconders getting back to 1997 has still not been found, some could be in prison again and others could have passed away and buried without any documentation for the DCS, e.g. death certificate, and so we are stuck in the system with this challenge where we can archive and or archive missing offenders without any valid documentation of proof of their whereabout*".

Respondents confirmed that they are required by law to show that offenders on community supervision comply with parole conditions and therefore not knowing where these offenders are when they abscond it's a dereliction of duty. Therefore, EM will help address that problem and track offenders.

As the majority of the respondents expressed the difficulty of measuring the impact of EM in South Africa, one respondent said that:

"*But now like, for example, South Africa is developing country and then we could benchmark with other countries that are using electronic monitoring. I don't know how many countries in the world, are they?*

*And we will be the first ones in Africa as a whole. And those countries that are using electronic monitoring are not more than 10. … The last statistics was six, unless they added another one. But now we should also engage and then look at their development to be able to measure our impact in future. If those are the developed countries, what are they doing? We don't know when are we going to be called the developed country? And … that should also be considered so that now we can see what they are doing. How do they become successful with that, so that we can align ourselves with them*?

### 5.4. EM technologies and procedures' effectiveness in South Africa

When giving their opinions and perceptions around the EM technologies and procedures that could be effective in South Africa, most respondents related to their experiences with EM pilot project. Suggestions were given on how to better improve on the monitoring gadgets as well as the systems in question. Looking back at the pilot tag, one DCS official has hope that the new intervention and the tag will link EM to an app that can monitor offenders' movements and provide officials with up to date real-time information to work towards better in supervision. That is, this new design must be user friendly and post-release support requirements must be made easily available. The two types of devices used included a) a single unit device linked to a cell phone that corrections officers could use to talk to the offender; and (b) a two-unit device (two-piece device) radio communication that looked like a cell phone that was always stolen or often lost by offenders. Therefore, there is a need for a device that will not be easily stolen or even get lost.

One of the major challenges was also about the size of the tag belt which many offenders complained about it not calibrated to fit all the different sizes of offenders' bodies, while some offenders had allergies and so EM caused rashes on arms or legs (though rare). There were also diabetic offenders and the gadget caused other secondary infections. Therefore, health implications must be considered in the design of the tag. Generally, participants in the study recommended a watch-like design which will not compromise the safety of the offenders, which is not obvious to communities that it is for EM, that must not be easy to tamper with, and which can use all SA cell phone networks and even more importantly at no cost. To avoid stigmatization of offenders, one officer said:

*"they must consider a situation where the device can be concealed within the body of the person. It's up to him, if he wants it to be known or concealed under clothing. It should not be a big device … so that it may not be easy for people to identify. Ideally, the people who design this device, they must try to strike a balance between the interests of the community versus the interests of the accused".*

Another officer's response was that:

*"I don't know how possible that is for such an invisible device. I don't know, because even if it's a normal device, if it looks like a bracelet, they will tend to know that this that's not a bracelet, it's a device. They have a way of knowing it because you can't see myself wearing this black bracelet and when you walk around you see Mrs Beard in the same bracelet. How come can all these ex-offenders be having the same bracelet?*

On the other hand, some officers preferred a bracelet that must be visible and known to the community to assure them of their safety. One officer said that:

"*it must be visible and known to communities, the purpose is not to name and shame a person, but to expose them to the public that this one has been tagged and is under certain processes of the correctional services*".

The other challenge that was experienced during the pilot period was the issue of charging the gadget because some of the inmates e.g., in the rural areas, have no electricity and now the offenders must be on EM. Given that the device will not be charged at end of the day, the offenders is considered to be violating the system because the device switches off. If we talk about tagging then we must be able to supply the inmate with solar panel so that the device can be charged by a solar panel. Generally, the device must be designed in a way that offenders will not be able to manipulate and tamper with it, which must also be well recognised by communities, and connected to all South Africa's mobile networks at no cost.

### 5.5. Legal safeguards protecting the human rights of the offender under EM

One of the main concerns raised by respondents was that EM gives rise to problems if it is not integrated in the CSA with an understanding that it is more than just a policy and that the Act supersedes the policy. One officer emphasised that:

"*It is just a policy so it doesn't hold so much power in it. That is why Human Rights Commission will challenge it, individuals will also challenge it and you cannot point in the Act that this EM is in line with the Act. I think the most important thing is the legal aspect of it because it is had got loopholes. That's why other sectors, like Human Rights Commissions and all these things, once they can get into the Act then they will see that the Act authorizes you to put this thing into operation, and if you fail to show that in the Act, then we are failing in the litigation that the Department is now vulnerable to be sued, that's the main problem".*

Like any national initiative, the majority of respondents were of the opinion that EM must be guided by legislation rather than merely policies from national level filtering down to the DCS as the implementers. That is, the suggested starting point is to deal with any gap in the Act, because that automatically will improve the coordination at various levels because silence in the Act is a problem on its own. Although EM is already implicitly given approval by Regulation 28 (see page 39 above), it would be helpful if the CSA were itself amended to make explicit provision for EM.

In relation to the protection of the human rights of the offenders, most respondents were of the opinion that the rights of the offenders must not be considered, as they have the potential to affect the sustainability of EM. However, respondents indicated that human rights issues are going to crop up, but we should also recognise that even by putting a person in prison you are limiting some of these constitutional rights.

"*Yes, human rights of the offenders can be limited if the person has been found guilty and sentenced. Therefore, it is important to consider the benefits of the society vs the human rights of the offender himself*", one respondent said.

Because these offenders will still be under DCS supervision when going home, physical monitoring and use of tags does not necessarily constitute any substantive difference, as they are just different types of monitoring. Simply because EM is a mechanism that is an extension of the correctional centre, then any concerns about human rights should not be a problem, perhaps depending on the mechanism's design, and its social and health impacts. Offenders' rights are already limited because they offended and they have been convicted and imprisoned, which necessarily itself involves the forfeiture or limitation of some rights. One respondent indicated that:

"*we should find a way to make a person that is tagged understand that his rights are limited. Anyway, when one is in the centre, they have limited space to move. Even when they are tagged, they will be having limited space to move. They will not be allowed to move freely*".

Another respondent said that:

"*I understand the privacy issues, but I do not understand why offenders would complain about human rights. If they know that they won't reoffend, why should they get worried? They must just concentrate on being released and reunited with their families and communities*".

Accordingly, the offenders' rights should be balanced fairly with the rights of the person who was violated through the act of this person while committing the offence. So, if the right of the victim was totally violated in the case of rape, murder, robbery of his car or possession; the rights of the victim were not

supposed to have been violated, but they were. Offenders must understand that there is a crime which they have committed therefore they can't commit crimes and then be left roaming around as if nothing has happened. Therefore, offenders must also understand that this is just one way of paying the price of whatever crime they have committed. One respondent emphasized that EM is also 'nerve wrecking' for victims, they have not been so involved in deliberations so far, and they should be considered. How do you talk of human rights when the offender raped a five-year-old child, the gravity of the case must be taken into consideration? Considering the type of crime, the offender has committed is imperative, because if we talk of the human rights of the offender you should also put the victim at the centre.

The above statements do not consider that the offender's conviction and sentence does not remove all their rights. For example, Section 35 of the Constitution 'Arrested, detained and accused persons' provides in 2(e) that 'Everyone who is detained, including every sentenced prisoner, has the right -… to conditions of detention that are consistent with human dignity …'. In terms of Section 36 of the Bill of Rights, any right can be limited ONLY to the extent that the limitation is 'reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, considering all relevant factors, including --

a. the nature of the right;

b. the importance of the purpose of the limitation;

c. the nature and extent of the limitation;

d. the relation between the limitation and its purpose; and

e. less restrictive means to achieve the purpose.

2. therefore, except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.'

Some respondents demonstrated their worries about the offender's health and how it could be affected by these tags. Depending where the tag is, the respondent indicated that if it has implications on offenders' health then it interferes with their rights, with one respondent noting: "*we had one case where one offender was complaining that he's got skin rash as far as EM is concerned but we took it as a made up however, it the very same story that was the only sporadic event it was only one case that it has got a health challenge - only one case*". Accordingly, the question of the human rights of offenders should not be a real concern except where an offender reacts to the bracelet and develop sores or a rash, in fact they must be thankful to be able to complete their sentence in the community or else they should spend their total time in custody. In line with the Constitution and as indicated in

the comment above regarding Section 35 of the Bill of Rights in the Constitution, a convicted offender does not forfeit all their rights. The way a convicted offender is treated after conviction, during imprisonment, and during parole or community correctional service, must be consistent with the offender's (and the victim's and their families' and community's) right to dignity. The offender is punished by deprivation of many aspects of their right to freedom, but s/he remains entitled (i.e. they have a right), for example, to adequate shelter, clothing, food, water, healthcare, education, etc., during imprisonment. Otherwise, other rights e.g., of movement, can be limited, if reasonable and justifiable, given that they are still under the DCS supervision.

EM should be a voluntarily option. If offenders are worried about their rights, and those who don't take it should know will spend all their life or time in jail. EM should indeed be a voluntary option, as informed consent by the offender would remove one of the obstacles monitoring personal movements that is, ordinarily, a restriction in the implementation of POPIA. Further, there are psychological effects that must be considered and come with for example stigmatisation of the offender's being in the community. Therefore, offenders who choose to be on EM must be aware of the limitations of their rights during EM monitoring. However, EM must be offered to an offender in a way and on the basis of such terms and conditions that the rights of the victims and the rest of society, who have a right to freedom and security from all forms of violence in terms of Section 12(1)(c) of the Bill of Rights, must be balanced with the rights of the offender. Thus, for example, as stipulated in Regulation 28, an offender is entitled to EM that meets certain criteria that consider their rights to health and dignity.

### 5.6. The contribution of EM on successful reduction of the prison population

Although the majority of the respondents are of the opinion that EM has the potential to reduce overcrowding in correctional centres, there are further issues that they suggest should also receive attention for sustainability purposes. Most of the issues that were raised concerned availability of resources, skills and capacity building to operate the system, and the appointment of more correction officers. One officer indicated that even though EM will reduce overcrowding in the centres, it is like solving a problem with another problem. Accordingly, "overcrowding will be reduced but when it comes to community corrections, there will be shortage of staff for monitoring". Given that the DCS is considered by its officials

to be short-staffed, EM will work in reducing the workload especially in respect of RDs of whom there are too many. For some respondents, the concern was how the DCS is going to assist SAPS with electronic monitoring of RDs. As part of efforts to reduce the population within DCS centres, one respondent expressed the view that it is more cost-effective to pay for additional corrections staff and save on the costs of incarceration. Maintenance of these offenders is costly and the spread of diseases will be reduced. It is also beneficial to the offenders themselves because every offender would want to be outside the prison walls. Yes, he has transgressed the law, but he prefers the matter to be dealt with while he's out of prison and participating in community correction as a form of punishment.

However, some respondents were not certain whether EM will ever be effective in reducing overcrowding especially if RDs are not included and are un-sentenced. Furthermore, some respondents weren't sure whether community correction officials would benefit from less in-person monitoring, reduced kilometres travelled for monitoring purposes and reduced petrol consumption, which would save the state significant expenditure. If corrections officials will still be required to visit an offender's house twice a week, respondents are not convinced that EM represents a better solution. The respondent further asked:
"*So, while we are reducing the costs of incarceration, are we not increasing costs with this EM on community corrections? Therefore, I think this gadget is coming with additional cost [for] … community corrections*".

Additionally, some respondents were not sure whether EM will be effective in the case of offender management of foreign nationals as they are another group of offenders who also contributes enormously to overcrowding in the centres. For example, "if maybe sometimes a parolee is under electronic monitoring then he happens to manipulate the device and within a short space of time managed to cross borders, it will be very difficult to trace and arrest him back to the country". Although EM can reduce overcrowding, it is also worth noting that many released offenders are not hesitant to find ways to circumvent EM. Thus, they can find ways to unlock their EM device and leave it at home, and participate in unlawful or criminal activities.

EM will only be effective provided resources are supplied in time, there is equipment for monitoring 24/7 and all other necessary resources are available, such as hard and soft resources, i.e., equipment and more staff members. Respondents also believe that EM will work only if DCS establishes a dedicated unit with well-resourced capacity and a clear coordination and management structure. All Management Areas within a region must be co-ordinated from a control room operated at regional level and not like the

previous pilot where there was one national control room in Pretoria. EM also depends on the durability and sustainability of the device in terms of e.g., the network and the battery life. DCS has community corrections and if fully resourced with infrastructure and staff the Community Corrections Department should be able to effectively monitor e.g. allocating staff to monitor specific community areas where they are offenders released.

### 5.7. EM as an enabler for meeting the offence-related needs of the offender

The majority of the respondents agree that EM will be an effective enabler for meeting the offence-related needs of offenders. However, there was a strong emphasis by most of the respondents that the primary objective should be to ensure that offenders serve their sentences. It was confirmed that EM will assist the offenders in avoiding reoffending while giving them an opportunity to be in the comfort of their homes. One respondent indicated that:

"*the fact that they will be released back to their families and communities is part of meeting the offenders' needs. However, they will easily be stigmatised by their communities. They will obviously be excited to be released home but some will be at risk of community mistreatment*".

Another respondent explained EM as a mechanism that gives offenders an opportunity to serve their remaining sentences in the comfort of their homes while it will also assist in monitoring that they also comply with some of the conditions set by the parole board. Furthermore, some offenders who have committed minor offences will be protected from ill-treatment by fellow offenders in the centres. From the point of view of offenders' legal representatives, one official from Legal Aid South Africa indicated that EM might be able to serve the offender needs by assisting offenders to be compliant. The respondent further gave an example:

"*how often have you had your clients asking you in court, can you ask the presiding officer to consider a non-custodial sentence for me to give me a suspended sentence? It's because he doesn't mind that he is being punished, but as long as he can see himself as being outside now, you cannot just be outside without being monitored, this will bring a new intervention where we and you benefit and also the society benefits in the sense that the you're being monitored*".

For some respondents, attention should not be on offenders' needs but on community safety, although it also assists some offenders not to re-offend. In an attempt to emphasize their opinion, one respondent said that:

*"Maybe because we didn't get more reports on the pilot, I think only on lifers that this gadget never had any bad thing because they really do not want to come back to prison. Should you give this gadget to … [those offenders with a sentence of imprisonment for] seven years, five years, eight years we would have records of saying he went and raped while this gadget is on. The gadget is not an alarm where it will be signalling to people that this is a rapist, so that all of us are aware that we are next to an offender. Therefore, EM might not be effective in serving the so-called offender needs".*

However, other respondents' opinions contradicted this view. One participant indicated that 'lifers' on parole are also not reliable and are more likely to reoffend. The respondent said that:

*"if you check the crimes that are committed, it is mostly offenders that are on parole. If you check on the news the killing of the station commander, it involves the offenders that are on parole. The heist, you know the killing of people around here, it's most of our parolees. So, I think this EM will assist and also reduce absconding***".**

For some respondents, the focus should be on reducing their workload on supervision to pay more attention to other responsibilities. EM must also be in line with the vision of the parole board that has been established that the aim here is to rehabilitate the offender and then from there they must go back to the community. Given that the aim has shifted from punishment to corrections, EM must be in line with the principles of rehabilitation. Generally, there is a feeling of uncertainty on tagging of RDs as they are not as yet sentenced and one respondent raised their concern and said "*I am not sure because for RDs they are just suspects until proven guilty*".

### 5.8. EM as a cost-effective tool for social reintegration of offenders

The theoretical notion that EM is a cost-effective tool for social reintegration of offenders is largely supported by most of the respondents, of course with some requirements. Seemingly for some respondents, planning is key and also putting in place measures that will reduce corruption. Communication and fair distribution of resources within regions is also critical and the system must be operated by community corrections with the support of IT. Furthermore, respondents indicated that human resources and equipment are important, emphasizing that they need training and more corrections officers for this monitoring as they are operating on skeleton staff.

"*Yeah, that's something which must also be looked at when they introduce it because yes, there have to be enough human resources. Remember this electronic monitoring operates 24/7 even if people are asleep, we have to be at work. Obviously, there'll be a shortage, so as far as human resources they have*

*to sort of increase the post establishment add some officials because there will be officials now rotating on this electronic monitoring shift*".

One critical element for realising the effectiveness of EM is ensuring that all stakeholders buy-in to the initiative and that their roles and responsibilities are clear. Whereas few of the respondents disagreed about the cost-effectiveness of EM, one respondent said that:

"*the last time I checked, the cost of EM is more than that of incarceration. So DCS must do its homework and weigh between the two. Identified challenges must also be resolved if EM is to be sustainable*".

In terms of tracing and tracking of offenders for rehabilitation and social reintegration, respondents agreed that the DCS has a large number of absconders. However, that would never be minimized by the gadget alone. Both physical monitoring and EM will have the same rates of absconding and recidivism. One factor that might lead to EM being seen as not cost-effective is the DCS's failure to address identified challenges timeously. The challenge was elaborated by one respondent who mentioned that:

"*Because I know it is my department which struggles with implementation. All these challenges including others involving community corrections have always been discussed, with solutions put in place which were never implemented. Even in February this year, because of the new leadership, all community correction officers met to discuss how they could improve and address the challenges we face. We are still waiting for implementation of the resolutions taken*". There is sense that the DCS has 'no manpower, no cars'.

### 5.9. The contribution of EM on the reduction of crime in communities

Although there is a sense of support for implementation of EM, the majority of respondents do not believe that it will reduce crime. One respondent indicated that:

"*Gadgets maybe implemented but we do not agree with the fact that they are reducing crime. We don't agree with the fact that they will stop reoffending. Crime and reoffending may escalate even when if everybody is having this gadget*". Another respondent further said that "*but now if it's being tagged, it's just a question of monitoring his moves and then you are not physically attached to him. However, EM is not going to tell us what the offender has been doing at all the locations, and it does not even prevent offender from committing a crime. He can commit a crime with those things, he can stab people, he can steal with those things, but now it's only a question of looking for evidence of the movement, in case a need arises. All these things, yeah, but it doesn't stop him from committing the crime".*

EM might not reduce levels of crime in communities because it is not installed in tandem with surveillance cameras, for example. Therefore, offenders can reoffend without any interruptions. For those offenders that are boastful, they can use EM against their victims. Putting RDs on EM raised concerns and questions around the possibility of crime reduction by this group of offenders. Most respondents expressed the concern that EM will not reduce crime as RDs will still offend because they are not sentenced and do not have the experience of being in jail as a disincentive for re-offending.

A minority of respondents assert that EM has the potential to reduce crime in communities if it meets certain requirements. For instance, one respondent said that:

"*It has the potential to reduce reoffending if the bracelet is not easily tampered with. If the community is educated about how they can live with these offenders, crime can also be reduced. Some of them are not violent and they can easily live with these offenders*".

Knowing that their movements are monitored, they will be afraid to reoffend with fear of being incarcerated again. Some offenders will behave well and ensure that they maintain their parole and also comply with its conditions. It will also reduce harassment of victims by the offender. Another respondent termed EM as mutual benefit and said:

"*your moves are being monitored - whether you're complying with the conditions that have been given to you and at the same time you're benefiting in that you're not incarcerated until a particular period wherein you will be free completely in the sense that the period of that device being attached to you. It is a mutual benefit for both the offenders and the department*".

Furthermore, EM bears the potential to reduce the confusion that communities have about the release of offenders on parole. The respondent explained as follows:

*"I think this electronic monitoring might assist because communities differ in their perceptions to say, let's say, for instance 'This offender killed my brother', and sometimes they don't understand the processes of parole to say the offender would serve half of this sentence [in custody] and there will be a time [when] … he will be brought back to the community, into the society. So, by … seeing this device on the offender, they will … see that the offender is indeed still monitored by DCS. Seeing the offender with the device for some years to come they will have to say yes indeed DCS is still dealing with the behaviour of the offender who committed*

*the crime. Now they see officers visiting the offenders, but they don't understand why they are visited. I think it will assist".*

For another respondent, EM is a mechanism of 'nursing' or nurturing and encouraging crime in South Africa, asserting that: *"Now we are nursing crime and only to try to rely on the gadget to control crime after crimes have been committed. Why don't we deal with stopping crime before it happens? Yes, we are nursing crime because of food [that is provided in prison], they're overeating. And you know outside, there's no food and they can't afford to buy food. So inside if they can find breakfast with eggs, there is soft porridge, bread and fruit. And they get lunch and supper. And they know that if they are outside they would have, maybe eaten only 2 slices of bread. With that, how then do you expect poor offenders not reoffend?"*

### 5.10. Critical cross-cutting results

In summary, crime prevention and specifically the use of EM in offender management, is a multi-sectoral and integrated endeavour, not merely a 'criminal justice issue' for the community corrections value-chain phase alone at the DCS. It should be addressed by 'whole-of-society' and/or 'whole-of-government' probing the causal factors and vectors of crime so as to identify appropriate measures. Indeed, ICJS of the DoJ&CD is just such a response to the need for effective cooperation and integration of initiatives, programmes and plans of the departments and law enforcement agencies under the JCPS cluster in realising the strategic objective of building safer communities in South Africa. While the DCS can be a key point of entry and may in many contexts have the primary responsibility for offender rehabilitation, the key to reducing overcrowding and recidivism covers a much wider range of actors and dimensions in order to be able to provide sufficient understanding and guidance for relevant and sustainable action.

Many other sectors of society can have an impact on crime levels (and consequently on offender management) and therefore have a responsibility to act to help ensure that EM is implemented successfully in order to contribute to the goal 'that All People in South Africa are and Feel Safe' (National Development Plan outcome 3). The DCS cannot do so alone. This research reflects the knowledge and understanding that the factors that cause crime and violence to increase or decline in South Africa include many different social, economic and environmental factors. Indeed, there is a much broader role for government at all levels in

establishing proactive rather than reactive strategies in offender management for preventing and reducing crime and victimization. Housing, health and job creation, recreation, social services and environmental services can all make a significant difference to objectives of EM. Further, in this research, evidence from circumscribed literature reviews demonstrates that well-planned strategies and programmes can be cost-effective and 'cost-beneficial' and bring other social and economic benefits of EM. In summary, the successful implementation of any community corrections programme that utilizes electronic supervision tools demands the partnership, commitment, and involvement of both the internal and external community stakeholders.

## 5.11. Conclusion

The case management system requires that each offender be assigned a case officer and their progress be monitored by a case review team. The behaviour patterns recorded through the case management system are instrumental in determining the profile of offenders, their privilege categories, as well as their prospects for parole. However, due to staff shortages and a high prison population, effective monitoring of offenders is compromised. This results in delays in placement of offenders that may potentially be eligible for parole. Inappropriate ratio of official to offender/parolee and probationer is also an ongoing challenge in the system. In these respects, EM of parolees and probationers may reduce the pressure placed on limited human resources. Further, an effective integrated parole system constituted by Case Management Committees (CMCs), Correctional Assessment Officials, Case Officers, Correctional Intervention Officials and Correctional Supervision Parole Boards (Parole Boards) is essential if community corrections and ultimately EM is to succeed. Community corrections and consequently EM rely on an effective offender / parolee tracking system. However, because of poor infrastructure[10] in some communities, some offenders have not been released on parole, for example, because they do not have addresses that can be monitored. Further, the EM feasibility study results showed that areas potentially covered by electronic monitoring does not match the geographical distribution the offender population. This implies that some

[10] The concept of 'infrastructure' is used here as including formal residential settlements with municipal services, including street names and house numbers and reliable domestic electricity provision, as well 'coverage' by relevant technologies, whether cellphone networks or GPS-enabling infrastructure.

offenders – though potentially eligible for parole and EM – may be excluded because of external infrastructural challenges that are beyond the control of the DCS.

# CHAPTER 6: KEY FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

## 6.1. Introduction

It is the people using the electronic tools, not merely the tools themselves that will accomplish the goals of community corrections and purpose of the EM initiative. In and of themselves, these tools will accomplish little. In the hands of skilled corrections professionals, they can provide valuable information for supervising offenders effectively, provided also that those professionals are supported by effective systems, reliable partnerships and adequate resources. It is the people using the electronic tools not the tools themselves that will accomplish programme goals. No technology is without drawbacks; all technologies can be thwarted. The purpose of this chapter is to discuss the key findings of the study and draw from them, the recommendations that could potentially contribute towards the success and sustainability of the offender management system of South Africa.

## 6.2. Key Findings

The following are the key findings of the study:

- **The uses, purposes and impact of EM in South Africa**

While there are many studies on the application of EM to offenders, this research identified no statistically significant effects on levels of crime or rates of offender recidivism. Most academic and other studies are mainly qualitative in nature. They report various positive effects, such as the way in which tags can reinforce good behaviour by deterring peer pressure on offenders to break curfews or other sentence conditions. Frequently reported negative effects include the extent to which the stigma of a visible tag can inhibit successful rehabilitation into society. The findings demonstrated satisfactory confidence that EM can be used in South Africa to reduce overcrowding and minimize absconding of offenders from the corrections system. To some extent, EM can also reduce cost of incarceration if its costs are not more than those of housing the offenders in the correction centres.

- **EM technologies and procedures effective in South Africa**

An array of electronic technologies is available today that can provide information to achieve a variety of purposes in offender supervision. Reporting kiosks, remote substance use detection devices, ignition interlock systems, identity verification systems, and monitoring equipment to detect offenders 'compliance with restrictions or track their locations are among the variety of electronic technologies presently in use. Besides this extensive assortment of types of equipment, within each category, various brands and types have different features. The sustainable functioning of the devices, characterised by stable network connectivity was also a concern from most of the participants. According to the findings, the preferred devices must be designed in such a way that the offenders' safety is taken into consideration while assuring communities that the offenders are monitored so that their safety is equally respected. Therefore, a visible device that is well-known to communities and which is not easy to tamper with is recommended.

- **Legal safeguards protecting the human rights of the offender under EM**

Different countries have diverse legal and justice systems, which reduces the replicability of international lessons. In South Africa, most evidence of effectiveness is weak and difficult to generalise to the wider offender population, because: (a) the research team lacked access to data with which to analyse the effects on offenders in more details; (b) international experience elsewhere with most independent evaluations of GPS-enabled location monitoring were done on some schemes run by police for small numbers of selected volunteers; (c) the nature of those schemes and the characteristics of the volunteers differ from the population that the DCS intends to reach with its EM intervention; and (d) there is a scarcity of quantified evidence, such as comparative data from control trials, to help policy-makers and the courts understand how strong and sustained the effects of tagging on offenders can be. A critical issue established across all sites visited during this study reflected the challenge of the trade-off between the benefits of having more robust supervision of offenders and the additional burden it places on the courts, the police and probation services. However, from the law and the findings, it is clear that serving any sentence comes with some limitation of rights, and EM will not be an exception.

Generally, the findings suggest that 'offenders who participate in EM should clearly understand that some of their rights will indeed be limited while participating in the EM programme'. However, it should also be made clear that those rights, such as freedom of movement and freedom of association, will be limited to some extent, but in a way that does not infringe on other provisions of the Bill of Rights. For example, an offender in the EM programme may well be required to observe a curfew, or refrain from going to certain places or refrain from going near certain people, such as the victim, or from associating with certain other offenders. In this way the rights of the offender, as well as the rights of the victim, the rights of the victim's family and the rights of the community will all be upheld by the terms and conditions that the offender must adhere to while participating in the EM programme. Offenders' rights remain relevant and they should be at the centre of EM. However, the victim's rights, the family's rights and the community's rights must also be at the centre of EM. All of these rights must be considered and balanced against each other to produce a resulting set of limitations that are 'reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, considering all relevant factors', including those listed in the remainder of Section 36 of the Bill of Rights. Therefore, offenders do not forfeit all their rights upon conviction and sentencing to imprisonment. The loss of many aspects of their freedoms, especially their freedom of movement, is itself the punishment. Unless the court or the law permits otherwise, no additional punishment is permitted. For example, torture while in prison remains forbidden by law, and not even a court can authorise it. Therefore, the conditions of imprisonment should be consistent with the Bill of Rights in the Constitution. Similarly, the conditions associated with community correction and EM must also be consistent with the Bill of Rights. When rights are limited, they are literally 'limited' – they are not usually either automatically or entirely removed.

In the context of legal safeguards, it is necessary to consider the scope of application of the Protection of Personal Information Act 4 of 2013 (POPIA) and its impact, if any on the EM programme.

Section 2 provides that the 'purpose of this Act is to—

(a) give effect to the constitutional right to privacy, by safeguarding personal information when processed by a responsible party, subject to justifiable limitations that are aimed at—

(i) balancing the right to privacy against other rights, particularly the right of access to information; and

(ii) protecting important interests …' (emphasis added).

Important to note here is the intention to balance the constitutional right to privacy with protecting other important interests. One does not automatically override the other. Some of those 'important interests' are specified in section 3 'Application and interpretation of Act', which states in subsection (3) that this Act 'must be interpreted in a manner that—

(a) gives effect to the purpose of the Act set out in section 2; and

(b) does not prevent any public or private body from exercising or performing its powers, duties and functions in terms of the law', provided that the public body (such as the CSIR and DCS) do so 'in accordance with this Act or any other legislation … that regulates the processing of personal information' (emphasis added).

In other words, the constitutional right to privacy is not an absolute right that cannot be limited. On the contrary, DCS working with the CSIR can limit that right, and other rights, provided that they do not contravene POPIA (or any other legislation) when doing so.

Additional 'important interests' are mentioned in section s.6(1)(c)(ii), which deals with certain exclusions from the purview of POPIA, in the following terms –

'This Act does not apply to the processing of personal information -

(c) by or on behalf of a public body—

(ii) the purpose of which is the prevention, detection, … investigation or proof of offences, the prosecution of offenders or the execution of sentences or security measures, to the extent that adequate safeguards have been established in legislation for the protection of such personal information' (emphasis added).

In essence, these provisions mean that the DCS assisted by the CSIR can use EM to collect certain relevant personal data that is ordinarily or usually private, such as information about an offender's movements and physical location. (The CSIR would be acting as the DCS's agent and would be 'processing' personal information 'on behalf of' the DCS. The DCS would itself also be processing the personal information collected by the CSIR when it acts on the

information received from the CSIR's devices or data collection systems.) The DCS and the CSIR can do so, however, only if certain conditions are met. These conditions include –

- If the purpose is to monitor an offender participating in the EM programme in order to prevent, detect, investigate or collect proof of offences (such as non-compliance with conditions of bail, parole or community corrections);
- If the purpose is to use the data / personal information to prosecute the individual who makes themselves guilty of such non-compliance / breach;
- If the purpose is the 'execution of sentences', which manifestly includes ensuring that a participant in the EM programme complies with and adheres to the conditions of the community corrections / parole form or stage of their sentence; and
- If 'adequate safeguards have been established in legislation for the protection of such personal information', which they have in terms of POPIA, but only if and to the extent to which the terms of POPIA are complied with by the DCS and CSIR, or the extent to which such safeguards have been included in other legislation, such as the Correctional Services Act (CSA) and its Regulations.

If, therefore, the DCS and the CSIR wish to rely on these provisions of POPIA to enable them to implement the EM programme, through the exclusion of the DCS and the CSIR from the ambit of POPIA, it seems advisable that the DCS should ensure that explicit provisions are included in the CSA, as the implicit endorsement of the EM programme in Regulation 28 is currently inadequate to address the additional need to ensure that an EM programme participant's full range of rights and interests in their personal information are protected by 'adequate safeguards'.

The provisions of s.33 of POPIA also suggest that the activities of the DCS (and possibly also the CSIR) may not fall within the purview of POPIA. Section 33 provides as follows –

> 33. Authorisation concerning data subject's criminal behaviour or biometric information
>
> '(1) The prohibition on processing personal information concerning a data subject's criminal behaviour or biometric information, as referred to in section 26, does not apply if the processing is carried out by bodies charged by law with applying criminal law or

by responsible parties who have obtained that information in accordance with the law' (emphasis added).

It seems to be evident that the DCS is a body authorised and empowered by law to apply criminal law, in the sense that it is responsible for ensuring that an offender completes their sentence of imprisonment in accordance with the law. The processing by the DCS of personal information concerning an offender's criminal behaviour is therefore not prohibited by the provisions of s.33(1). It is possible to read the provisions of s.33(1) as also permitting the CSIR, as a 'responsible party' provided that is acting as the duly authorised agent of the DCS, to obtain such personal information concerning criminal behaviour. However, it is suggested that the advice of the Regulator is requested on this point.

It does not appear that either the CSIR or the DCS as the 'responsible party' (depending on how the data will be gathered, processed, received, interpreted and applied / acted on) will need to give any 'prior notification' to the Regulator in terms of section 57 of POPIA. The reason for this is that prior notification is required only if the responsible party 'plans to—

(a) process any unique identifiers[11] of data subjects[12] -

(i) for a purpose other than the one for which the identifier was specifically intended at collection; and

(ii) with the aim of linking the information together with information processed by other responsible parties;

(b) process information on criminal behaviour or on unlawful or objectionable conduct on behalf of third parties …' (emphasis added).

On the basis of the information currently available to us, it does not seem likely that either the DCS or the CSIR will process personal information (in the form of unique identifiers) for a different purpose than is planned in terms of the EM programme. As the provisions of sub-paragraphs (i) and (ii) are both required to be met (due to the inclusion of the word 'and'

[11] Section 1 of POPIA defines a 'unique identifier' as 'any identifier that is assigned to a data subject and is used by a responsible party for the purposes of the operations of that responsible party and that uniquely identifies that data subject in relation to that responsible party'. In the current context, such an identifier could be a prison number, for example, or an identity number.
[12] Section 1 of POPIA defines a 'data subject' as 'the person to whom personal information relates'. In the current context, that would be a reference to the offender participating in the EM programme.

between them), the possibility of the additional requirement of the 'aim of linking' mentioned in sub-paragraph (ii) is not discussed further here. However, in accordance with the rules of statutory interpretation, the provisions of paragraphs (a) and (b) should be read in the alternative. Consequently, the possibility of the terms of (b) being realised should be considered separately from those in paragraph (a). Therefore, as the CSIR may be 'processing' (as defined in POPIA[13]) personal information concerning possible criminal behaviour (such as breach of bail, parole of community correction conditions) on behalf of the DCS as a third party, it seems possible that the need may exist to give prior notice to the Regulator. It is suggested that the DCS and the CSIR approach the Regulator for advice in this regard.

However, the need to give the Regulator prior notice may arise only if the activities of either of these two public bodies acting together in this way are not already excluded from the purview of POPIA in terms of the relevant provisions of s.6 and or s.33 as discussed above. While it has been suggested above that it seems clear that the DCS and the CSIR acting in concert with each other to implement the EM programme may be excluded from the purview of POPIA, it is nevertheless recommended that the Regulator be consulted in this regard with a view to securing authoritative guidance.

In view of the discussion above concerning the meaning and implications of the relevant provisions of, especially, s.6 and s.33, as excluding the DCS and possibly also the CSIR from the purview of POPIA, it does not appear to be clear whether the provisions of s.37 are applicable to the DCS and the CSIR in the context of the EM programme. The provisions of s.37 appear designed to deal with a case-by-case exemption from the need to ensure that processing of personal information 'is in breach of a condition for the processing of such information, or any measure that gives effect to such condition'. Section 37(1) authorises the Regulator, by notice in the *Gazette*, to grant an exemption to a responsible party to process personal information, even if that processing is in breach of a condition[14] for the processing of such information, or any measure that gives effect to such condition, 'if the Regulator is satisfied that, in the circumstances of the case -

[13] For example, the definition of 'processing' in s.1 of POPIA includes 'collection' and 'transmission', whether or not automated, which is what EM bracelets / tags seem likely to do.
[14] The conditions applicable to processing personal information are contained in Chapter 3 of POPIA.

(a) the public interest in the processing outweighs, to a substantial degree, any interference with the privacy of the data subject that could result from such processing; or

(b) the processing involves a clear benefit to the data subject or a third party that outweighs, to a substantial degree, any interference with the privacy of the data subject or third party that could result from such processing' (emphasis added).

Section 37(2)(b) provides clarification that the 'public interest referred to in subsection (1) includes the prevention, detection and prosecution of offences' and (d) 'fostering compliance' with these legal provisions (emphasis added).

It seems clear that, given the prevention, detection (and possible prosecution) elements of the EM programme, the DCS's implementation of the EM programme would be covered by any exemption in terms of s.37(1)(a) published in the *Government Gazette* by the Regulator. It seems equally clear that the CSIR's participation as an agent of the DCS in implementing the EM programme would be covered by a similar exemption in terms of s.37(1)(b).

However, it is unclear at this stage whether such an exemption would be necessary if the CSA were to be appropriately amended, as suggested above, which would have the effect of excluding the DCS from the ambit or purview of POPIA. On the other hand, it is foreseeable that amendments to the CSA would be more easily developed with only the DCS in mind, whereas including a particular separate and additional public body such as the CSIR within the purview of the CSA may be a rather more challenging exercise in legal drafting and in achieving legal certainty.

One option to obviate possible difficulties in this regard, and still ensure the CSIR's exclusion from the ambit or purview of POPIA, could be to establish a clear contractual relationship between the DCS as the 'responsible party' in terms of POPIA and the CSIR as its agent to enable and facilitate part of the process of gathering and transmitting (i.e. processing) the personal information of offenders who participate in the EM programme. Another option could be for the CSIR to approach the Regulator for an exemption in terms of s.37(1)(b). On balance, this latter option may be preferable to a contractual arrangement, as it will have the benefit of the Regulator's stamp of authority and it will have the added advantage of transparency in the public interest through publication in the *Government Gazette*.

- **The contribution of EM to successful reduction of the prison population**

Although the findings generally agree that EM will reduce overcrowding within correctional centres, the concern is that the population will be transferred to community corrections. That is, the reduction of population in correctional centres will result in an increase in human resources required in community corrections, as well as demand for training necessary for successful implementation of EM from the community corrections units. The community supervision teams in community corrections are very small and understaffed. In addition, the study found risk in lack of continuity at senior management levels, with most officials at senior levels in the age range of 55+ years old. Some of the interviews were elongated because officials would stray to mourn about shortages of IT equipment for daily work, cell-phones, vehicle, uniforms, etc. Given these capacity constraints, community corrections are particularly overstretched. In addition, determining which offenders will be included in EM is crucial around which stakeholders must engage and in order to conducti a needs assessment. To ensure principled practice of EM, it needs clear policy and targeting; specified standards of operation; and independent inspection.

- **EM as an enabler for meeting the offence-related needs of the offender**

The findings suggest that EM will be an effective enabler for meeting the offence-related needs of offenders by assisting in avoiding reoffending and absconding. Although the offenders will further enjoy the benefits of serving their remaining sentences outside the correctional centres, rights and safety of communities including victims and their families must be respected.

- **EM as a cost-effective tool for social reintegration of offenders**

The evidence base on the effectiveness of EM suggests that delivering a functioning EM service is only part of the challenge. The extent to which monitoring will benefit the Department, the criminal justice cluster, including offenders and society, depends on how far the DCS and courts decide to use it. Effectiveness also depends on the capacity of the probation services and SAPS, for instance, to respond to higher level of reported breaches and other incidents that a more powerful system and a more extensive programme could generate. From the findings, there is a general agreement that EM is a cost-effective tool for social reintegration of offenders provided all necessary stakeholders are actively involved in the system, the

necessary human resources and ICT equipment are provided and efficiently used. The successful implementation of any community corrections programme that utilizes electronic supervision tools demands the partnership, commitment, and involvement of both the internal and external community stakeholders.

- **The contribution of EM on the reduction of crime in communities**

Although the findings demonstrate a great sense of support for the implementation of EM, the findings also reject the notion that EM will reduce crime in communities. Accordingly, EM will not prevent anyone from reoffending, as offenders can still commit crime with the devices on them. However, EM significantly reduces the likelihood of failure under community supervision and so demonstrates diminished potential for recidivism.

***From the critical cross cutting results, the following findings emerged:***

- **Skills and capacity building**

Further, the management of relationships with intended users of the new EM service will be an area of particular weakness during the formative years of the roll-out. Evidence from observations and interviews in the regions consulted during data collection demonstrate the extent of multi-levelled incapacities: the RCs, ACs, Heads of Community Corrections, for instance at the time of collection of data for this report, have not been formally informed of this new EM initiative; have not seen the new EM Policy; have not operated an EM service themselves; they have depended entirely on manual supervision. Their direct operational experience and understanding, particularly of location monitoring services using GPS, were limited.

- **Limited stakeholders' involvement**

The challenge of offender management and safe communities is a multi-sectoral problem. Thus, 'correction is not a responsibility limited' to the DCS, but 'is a responsibility shared with society. The role of societal institutions must be visible at all levels where correction is taking place' (DCS, 2005: 8).

- **Increased workload for community corrections**

Tagging generates an additional workload of incidents for monitoring and investigation, more breaches of sentence conditions and, potentially, more recalls to prison than would have resulted from less exacting methods of supervision. Some incidents will be false alarms not attributable to the offender but caused by accidental loss of electronic signals - sometimes in the middle of the night – thus disrupting the officers who must be dispatched to the home of the offender. Embedded within this challenge, DCS officials interviewed expressed profound concerns over a shortage of resources including vehicles and mobile phones. In addition, policy impediments exist around vehicle and firearm regulations, which require officials to surrender those resources each day at the end of their shift. If an official is on standby duty and there is a call to attend to a breach, it is always difficult to be at the scene timeously as these officials will need to go their posts to collect their firearm and a vehicle.

- **Non-compliance by qualifying offenders**

For location monitoring, the need for offenders, including those with chaotic or difficult lifestyles or living conditions, to regularly recharge their tags, typically for up to one hour each day, remains a significant practical constraint. An important constraint therefore is whether the new local device will be “smart” and able to alert wearers that their battery is running low. Clearly, in these circumstances we observed some scepticism from most DCS officials about the scale of EM envisaged by the DCS in 2022.

In conclusion, to reiterate an important point made elsewhere in this report, it should be stated again that electronic supervision tools are just that – tools. The upcoming pilot of the first GPS-enabled tags from CSIR should, if completed on the required scale and well-evaluated, provide more insight into the implications of expanded location tagging for the DCS’s community corrections, CSPB, SAPS and courts in terms of integrated offender management (IOM) principle and practice. In terms of the EM bracelet, the CSIR has already started engagements with the HSRC (research team) in preparation for this pilot evaluation to build such an evidence base for use in the DCS’s wider EM strategy.

## 6.3. Recommendations

Based on the findings of the study, the following are the recommendations that could assist in ensuring success and sustainability of the offender management system in South Africa:

**Appropriate and sustainable technology:** the DCS should select the technology they will use with care and with awareness of both its pros and cons. It is the people using the electronic tools, not the tools themselves that will accomplish the goals of community corrections and purpose of the EM initiative. Indeed, to reiterate an important point made elsewhere in this report, it should be stated again that electronic supervision tools are just that – tools. In and of themselves they will accomplish little. In the hands of skilled corrections professionals, they can provide valuable information for supervising offenders effectively. No technology is without drawbacks; all technologies can be thwarted. Therefore, the DCS should select the technology they will use with care and with awareness of both its pros and cons.

**Knowledge sharing and awareness**: There is urgent need to develop and deliver an information package through research, education, and training aimed at increasing awareness of existing provision, that will enhance the operation of EM where required, and identify and implement opportunities for enhanced integration with other services to support desistance processes and enhance public protection. In addition to increasing understanding, the pilot of the new device should be considered across 50% of the DCS regions over a period of not less than 6-12 months to identify the practical issues around location monitoring, and the implications for the courts, police and social work probation services.

**Integrated approach:** EM will be more effective when integrated with the use of other supervision and supports. There is moderately strong consensus in the international empirical literature that EM should be used in tandem with more rehabilitation-focused supervision and re-integrative support options (formal or informal) in order to effectively maximise opportunities for compliance and desistance from crime. Without complementary supervision and support, the impact of EM as a stand-alone measure may be limited to its duration.

**Effective communication:** Information integration, as well as information sharing, offers organizations a greater capacity to share information across organizational boundaries, to discover patterns and interactions, and to make better informed EM decisions based on more complete understanding. Increased productivity, improved decision-making, reduced costs,

increased offender management dividends, and integrated rehabilitation services can be realised. Communication is also important to engender ownership of the initiatives across all levels of operations and harness the DCS vision of a safer South Africa.

**Whole-of-society approach:** Involves multi-sectoral stakeholder participation and facilitating their active contribution in the decision-making process to take appropriate unity in implementing offender management. It is about building mutual partnerships and networking not only with the stakeholders of top levels like city corporations, but it is also about building a partnership with the districts of management areas and grassroots communities affected by crime. This approach denotes a DCS engaging all stakeholders including civil society, communities, academia, media, private sector, NGOs, other voluntary associations, families, and individuals to strengthen the resilience of corrections and society as a whole. There is a serious need therefore to establish EM steering groups with internal community corrections stakeholders directly involved with community supervision and rehabilitation of offenders, and also, external stakeholder engagement championed by the DCS pooling business, civil society, other government actors towards a whole-of-society multi-levelled EM approach.

**Robust management model for EM:** The analysis also noted deficiency in robust demand management model for EM. Indeed, as showed in the discussion EM can help modernise community supervision; and so, it needs creativity to articulate the concept of "offender management" into practice. Monitoring officers have a direct impact on the integrity and efficiency of EM and the reintegrated measured forms of supervision are needed to avoid false expectations of protectiveness. If it is integrated into broader supervision strategies EM restrictions can disrupt offending patterns, strengthen the community punishments for offending behaviour, and embolden efforts at reintegrating offenders more effectively into society. While EM encourages offenders to desist from crime however, irresponsible use of EM can raise ethical aspects, and when EM operates without support, the offender may find it offensive.

**One size does not fit all:** A fundamentally tailored use of EM in response to the diversity and vulnerability of monitored people will be more likely to make a positive impact. The potential positive impact of EM and generalised claims of effectiveness are significantly diminished in cases where it is used without due regard for diversity and vulnerability.

## REFERENCES

Adams, M., Klinsky, S. and Chhetri, N., 2019. Barriers to sustainability in poor marginalized communities in the United States: The criminal justice, the prison-industrial complex and foster care systems, in Sustainability, 12, 220.

Alexandru, M., 2017. A critical analysis of the enforcement and execution of the house arrest measure. *Contemporary Readings in Law & Social Justice*, 9(2), 609-616.

Ardley, J., 2005. The theory, development and application of electronic monitoring in Britain. *Internet Journal of Criminology*, 1-54. www.internetjournalofcriminology.com [Accessed 19/9/2021].

Babbie, E. and Mouton, J., 2001. *The practice of social research*. Cape Town: Oxford University Press Southern Africa.

Bales, W., Mann, K., Blomberg, T., Gaes, G., Barrick, K., Dhungana, K., and McManus, B., 2010. *A Quantitative and Qualitative Assessment of Electronic Monitoring – Report Submitted to the Office of Justice Program, National Institute of Justice,* Tallahassee, FL: Florida State University.

Balfour, B., 2003. *The use of Drama in the Rehabilitation of Violent Male Offenders*. New York: The Edwin Mellen Press.

Bartels, L., and Martinovic, M., 2017. Electronic monitoring: The experience in Australia. *European Journal of Probation, 9*(1), 80-102.

Bazelon, E., 2019. Charged: The new movement to transform American prosecution and end mass incarceration. Random House: New York, USA. ISBN 0399590013.4.

Belur, J., Thornton, A., Tompson, L., Manning, M., Sidebottom, A. and Bowers, K., 2020. A systematic review of the effectiveness of the electronic monitoring of offenders, in *Journal of Criminal Justice*, 68(April), 101686. https://doi.org/10.1016/j.jcrimjus.2020.101686.

BI Incorporated, 2021. *Advantages of electronic monitoring for cities, counties and states*. https://public.omniapartners.com/resources/industry-insights/advantages-of-electronic-monitoring-for-cities-counties-and-states.

Black, M. and Smith, R. G., 2003. Criminal Justice System, in *Australian Institute of Criminology*, 254, 1-6.

Bonta, J., Wallace-Capretta, S., and Rooney, J., 2000. Can electronic monitoring make a difference? An evaluation of three Canadian programs, in *Crime & Delinquency* 46(1), 61-75.

Brunelle, N., Carpentier, J., Hamel, S., Dufour, I.F. and Gadbois, J., 2020. Favouring crime desistance and social (re) integration of offenders through intersectoral partnerships, in *Handbook of Research on Trends and Issues in Crime Prevention, Rehabilitation, and Victim Support* (pp. 330-347). IGI Global.

Bulow, W., 2014. Electronic monitoring of offenders: An ethical review, in *Science and Engineering Ethics*, 20(2), 505-518.

Button, D., DeMichele, M. and Payne, B., 2009. Using electronic monitoring to supervise sex offenders: Legislative patterns and implications for community corrections officers, in *Criminal Justice Policy Review*, 20(4), 414-436.

Button, D., DeMichele, M. and Payne, B., 2009. Supervision with Technology, not supervision as technology: Legislative patterns and implications for community corrections' sex offender supervision, in *Journal of Criminal Justice Policy Review*, 20(4), 375-390.

Chamberlain, A. W. et al. 2020. Global positioning system monitoring of high-risk sex offenders: Implementation challenges and lessons learned, in *Criminal Justice Policy Review*, 31(9), 1259-1285. doi: 10.1177/0887403419884723.

Chamiel, E. and Walsh, S. D., 2018. House arrest or developmental arrest? A study of youth under house arrest, in *International Journal of Offender Therapy & Comparative Criminology*, 62(13), 4381-4402. doi: 10.1177/0306624X18779183.

Clear, T.R., 2007. Imprisoning communities: How mass incarceration makes disadvantaged neighbourhoods worse. Oxford University Press: Oxford, UK.

Corbett, R. P. and Marx, G.T., 1991. No soul in the machine: Techno-fallacies in the electronic monitoring movement. *Justice Quarterly, 8*, 399-414.

CSIR, 2020. Development of Electronic Monitoring Solution for the Department of Correctional Services. CSIR_DSC_TRACKER.

DCS, n.d. Community Correction. http://www.dcs.gov.za/?page_id=317#:~:text=The%20purpose%20of%20community%20corrections,monitored%20and%20accepted%20by%20communities [Accessed 9/5/2022].

DCS, 2005. *White Paper on Corrections*. Pretoria: Government Printers.

DCS, 2006. White Paper. https://www.gov.za/sites/default/files/gcis_document/201607/white-paper-remand-detention-management-south-africaa.pdf

DCS, 2018. Strategic planning report. Shaping the future of corrections in South Africa. 16-20 July 2028, Kopanong Hotel and Conference Centre.

DeLisi, M., Berg, M. T. and Hochstetler, A., 2004. Gang members, career criminals and prison violence: Further specification of the importation model of inmate behaviour. *Criminal Justice Studies*, 17:4, 369-383.

DeMichele, M., 2014. Electronic monitoring: It's a tool, not a silver bullet, in *Criminology & Public Policy*, 13(3), 393-400.

DeMichele, M., Payne, B. and Button, D., 2008. Electronic monitoring of sex offenders: Identifying unanticipated consequences and implications, in *Journal of Offender Rehabilitation*, 46(3), 119-135.

DeMichele, M and Payne, B., 2009. Offender Supervision with Electronic Technology: Community Corrections Resource. Atlanta, Georgia.

Dissel, A., 2008. Rehabilitation and reintegration in African prisons, in *Human Rights in African Prison*, 89-103.

Dolan, K. et al., 2016. Global burden of HIV, viral hepatitis, and tuberculosis in prisoners and detainees, in *Lancet*, 388, 1089-102. doi: http://dx.doi.org/10.1016/S0140-6736(16)30466.

DoJ&CD, 2019. Integrated Criminal Justice Strategy (ICJS): Presentation to Department of Correctional Services' Strategic Planning Session, 14 August 2019.

du Preez, J., Steyn, F. and Booyens, K., 2015. Risk factors and circumstances surrounding suicides in correctional centres in Gauteng, South Africa, in *Southern African Journal of Criminology Special Edition*, (2), 125-143.

Erez, E., Ibarra, P., Bales, W. and Gur, O., 2012. *GPS monitoring technologies and domestic violence: An evaluation study.* A report submitted to the National Institute of Justice, Chicago: University of Illinois. https://www.ncjrs.gov/pdffiles1/nij/grants/238910.pdf [Accessed 23/12/2021].

Erez, E. and Ibarra, P., 2007. Making your home a shelter: Electronic monitoring and victim re-entry in domestic violence cases, in *The British Journal of Criminology*, 47(1), 100-120. http://dx.doi.org/10.1093/bjc/azl026.

Florida Department of Corrections, 2003. *A controlled study of the effects of electronic monitoring and officer caseload on outcomes for clients in community control*. Tallahassee Florida.

Gainey, R., 2014. Electronic monitoring in Denmark and beyond, in *Criminology & Public Policy*, 13(3), 345-348.

Gainey, R. and Payne, B., 2000. Understanding the experience of house arrest with electronic monitoring: An analysis of quantitative and qualitative data, in *International Journal of Offender Therapy and Comparative Criminology*, 44, 84-96.

Garland, D., 2002. *The culture of control. Crime and social order in contemporary society*. Oxford University Press.

Geoghegan, R., 2011. Future of corrections: Exploring the use of electronic monitoring, London: Policy Exchange.

Geoghegan, R., 2012. Future of corrections: Exploring the use of electronic monitoring. Report, London: Policy Exchange.

Gibbs, A. and King, D., 2003. Home detention with electronic monitoring, in *Criminal Justice,* 3(2), 199-211.

Giblin, M. J., 2002. Using police officers to enhance the supervision of juvenile probationers: An evaluation of the anchorage CAN program. *Crime & Delinquency*. 48(1), 116-137. doi:10.1177/0011128702048001005.

Gowen, D., 2000. Overview of the Federal home confinement program 1988-1996, in *Federal Probation*, 64(2), 11-18.

Gies, S., Gainey, R., Cohen, M., Healey, E., Duplantier, D., Yeide, M., Bekelman, A., Bobnis, A., and Hopps, M., 2012. *Monitoring high risk sex offenders with GPS technology: An evaluation of the California supervision program final report* Bethesda, MD: National Institute of Justice.

Glaze, L., 2011. *Correctional population in the United States, 2010*. Bureau of Justice Statistics.

Gray, E., Taylor, T., Roberts, C., Merrington, S., Fernandez, R. and Moore, R., 2005. Intensive supervision and surveillance programme. Final Report NCJ Number 212195 https://www.ojp.gov/ncjrs/virtual-library/abstracts/intensive-supervision-and-surveillance-programme-final-report [Accessed 5/12/2021].

Hucklesby, A., 2008. Vehicles of desistance? The impact of electronically monitored curfew orders, in *Criminology and Criminal Justice*, 8(1), 51-71.

Hucklesby, A. and Holdsworth, E., 2016. Electronic monitoring in England and Wales. In Creativity and Effectiveness in EM Conference. London 17th March 2016. http://28uzqb445tcn4c24864ahmel.wpengine.netdna-cdn.com/files/2016 /06/EMEU-Electronic-monitoring-in-England-and-Wales.pdf [Accessed 2/5/2021].

International Association of Chiefs of Police, 2008. *Tracking sex offenders with electronic monitoring technology: Implications and practical uses for law enforcement* Alexandria, VA: International Association of Chiefs of Police. https://www.bja.gov/publications/IACPSexOffenderElecMonitoring.pdf [Accessed 4/3/2022].

Jackson, B. et al., 2015. *Fostering innovation in community and institutional corrections*. https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=270683.

Kamarulzaman, A. et al., 2016. Prevention of transmission of HIV, hepatitis B virus, hepatitis C virus, and tuberculosis in prisoners, in *The Lancet*, 388(10049), 1115-1126. doi: 10.1016/S0140-6736(16)30769-3.

Kamila, B., Jaroslav, K., Samuel, K., Peter, K., Peter, M. and Martin, O., 2020. Sustainable policy measures based on implementation of digital technologies in corrections: Exploratory study from Slovakia and beyond, in Sustainability, 12:8643 http://dx.doi.org/10.3390/su12208643.

Kilgore, J., 2013. Progress or more of the same? Electronic monitoring and parole in the age of mass incarceration. *Critical Criminology: An International Journal*, 21, 123-139.

King, D. and Gibbs, A., 2003. Is home detention in New Zealand disadvantaging women and children? *Probation Journal* 50(2), 115-126.

Kristofik, P., Borsekova, K., Korony, S. and Mihok, P., 2017. Classical and alternative methods of punishment: Economic comparison based on European evidence, in Proceedings of the 7th International Conference on Interdisciplinary Social Science Studies, Oxford, UK, 13-15 November 2017; pp. 85-94.

Lattimore, P. K., 2007. The challenges of re-entry, in *Corrections Today*, 62(2), 88.

Miles, M.B. and Huberman, A.M., 1994. *Qualitative Data Analysis* (2nd edition). Thousand Oaks, CA: Sage Publications.

Murhula, P.B.B. and Singh, S.B., 2019. A Critical Analysis on Offenders Rehabilitation Approach in South Africa: A Review of the Literature, in *African Journal of Criminology and Justice Studies*, 12(1), 21-43.

Muntingh, L., 2005. *Civil Society Prison Reform*. Dullah Omar Institute. http://www.communitylawcenter.org.za/clc-projects/civil-society-prison-reform-initiative/publications-1/cspri-publications/Offender-reintegration-No_10.pdf/ [Accessed 3/5/2022].

Naidoo, G., 2011. An overview of e-government policy initiatives in the South African Government. http://www.csi-sigegov.org/1/34_322.pdf [Accessed 9/8/2021].

Nellis, M. 2004. Electronic Monitoring and the Community Supervision of Offenders, in Bottoms A. E, Rex S and Robinson G (eds) Alternatives to Prison. Cullompton: Willan.

Nellis, M., Beyens, K., and Kaminski, D. (eds.), 2013. *Electronically monitored punishment: International and critical perspectives.* London: Routledge.

Nellis, M. and Vanhaelemeesch, D., 2012. Electronic Monitoring in Europe: Report form the 8th CEP Electronic Monitoring Conference in Balsta, Sweden, 8th-10th November 2012, in The Journal of Offender Monitoring, 24 (2), 23-26.

Nellis, M., and Lehner, D., 2012. *Scope and definitions: Electronic monitoring*, Strasbourg: European Committee on Crime Problems (CDPC), Council for Penological Cooperation (PC-CP). http://www.coe.int/t/dghl/standardsetting/cdpc/CDPC%20documents/PC-CP%20(2012)%207rev2%20Scope%20and%20Definitions%2025%20Electronic%20Monitoring%2016%2010%2012.pdf [Accessed 4/3/2022].

NICRO, 2011. To e-tag or not to e-tag. http://www.nicro.org.za/wpcontent/uploads/2011/08/NICRO-Turnaround-e-newsletter-July-August-2011.pdf [Accessed 10/5/2021].

O'Rourke, G., Scott, A., Lance, D. and Evans, S., 1998. Coordinated agency network: Fighting crime and combating juvenile delinquency. *The Police Chief*, 65, 48-50.

Padgett, K., Bales, W., and Blomberg, T., 2006. Under surveillance: An empirical test of the effectiveness and consequences of electronic monitoring, in *Criminology & Public Policy* 5(1), 61-92.

Paterson, C., 2015. From offender to victim-oriented monitoring: A comparative analysis of the emergence of electronic monitoring systems in Argentina and England and Wales. *URBE*, *7*(2), 155-166.

Paulson, P., 2013. *The role of community based programs in reducing recidivism in ex-offenders*. https://sophia.stkate.edu/msw_papers/247 [Accessed 9/5/2022].

Pew Charitable Trusts, 2016. Use of electronic offender-tracking devices expands sharply, in *Issue Brief*. http://www.pewtrusts.org/~/media/assets/2016/10/use_of_electronic_offender_tracking_devices_expands_sharply.pdf [Accessed 23/12/2021].

Piquero, A., Farrington, D. P. and Blumstein, A., 2003. The criminal career paradigm: Background and recent developments. *Crime and Justice*, 30, 359-506.

Republic of South Africa., 1998. The Correctional Service Act 111 of 1998. Pretoria: Government Printers.

Regan, J., 2017. The impact of electronic monitoring and disruptive innovation on recidivism rates in federal prisons: A secondary data analysis, in *Biometrics & Biostatistics International Journal*, 5(4). doi: 10.15406/bbij.2017.05.00138.

Richter, M., Ryser, B. and Hostettler, U., 2021. Punitiveness of electronic monitoring: Perception and experience of an alternative sanction, in *European Journal of Probation*, 13(3), 262-281. doi: 10.1177/20662203211038489.

Richter, M., Ryser, B. and Hostettler, U., 2020. Evaluation Electronic Monitoring. tstetten. Bern: Universit¨at Bern – Institut für Strafrecht und Kriminologie, in Prison Research Group. doi: 10.48350/152948.

Renzema, M. and Mayo-Wilson, E., 2005. Can electronic monitoring reduce crime for moderate to high-risk offenders? In *Journal of Experimental Criminology*, 1, 215-237.

Roman, J. K., Liberman, A., Taxy, S., and Downey, P., 2012. *The costs and benefits of electronic monitoring for Washington DC.* The Urban Institute and District of Columbia Crime Policy Institute.

SafersSpaces, 2022. *Prison violence in South Africa: Context, prevention and response*. https://www.saferspaces.org.za/understand/entry/prison-violence-in-south-africa-context-prevention-and-response [Accessed 30/3/2022].

SAnews, 2013. *Electronic monitoring of offenders to help domestic violence victims*. https://www.sanews.gov.za/south-africa/electronic-monitoring-offenders-help-domestic-violence-victims [Accessed 30/3/2022].

Scottish Government, 2012. *Development of electronic monitoring in Scotland: A consultation on the future direction of the electronic monitoring service*, Edinburgh: Scottish Government.

Schoeman, M., 2013. *A Classification System and an Inter-disciplinary Action Plan for the Prevention and Management of Recidivism*. Pretoria: University of Pretoria.

Sechrest, L., White, S., and Brown, E., 1979. *The Rehabilitation of Criminal Offenders: Problems and Prospects*. Washington, DC: National Academy of Sciences.

Siegel, L., 2005. *Criminology: The core*. Belmont: Wadsworth Learning.

Smeth, A. et al., 2019. The cost-effectiveness of electronic monitoring. https://www.csc-scc.gc.ca/research/r-430-en.shtml.

Stern, V., 1999. Alternatives to prison in developing countries, International Centre for Prison Studies, King's College London and Penal Reform International, London.

UNODC, 2018. *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders*. Vienna: United Nations Office on Drugs and Crime.

Vanhaelemeesch, D. and Vander, B. T., 2014. Between convict and ward: The experiences of people living with offenders subject to electronic monitoring, in Crime, Law and Social Change, 62(4), 389-415.

Van Vuren v Minister of Correctional Services and Others (CCT 07/10) [2010] ZACC 17; 2010 (12) BCLR 1233 (CC); 2012 (1) SACR 103 (CC) (30 September 2010). http://www.saflii.org/za/cases/ZACC/2010/17.pdf [Accessed 30/4/2021].

Walmsley, R., 2006. *World Prison Population List*. London: King's College London International Centre for Prison Studies.

Wheeler, D. P. and Patterson, G., 2008. Prisoner re-entry, in *Health & Social Work*, 33(2), 145-147.

Whitehead S., Kersley H. and Mohun J., 2013. *Justice for sale – The privatisation of offender management services.* New Economics Foundation https://www.tuc.org.uk/sites/default/files/Criminal%20Justice%20Report.pdf [Accessed 9/12/2021].

World Prison Brief, 2019. World Prison Brief data. https://www.prisonstudies.org/world-prison-brief-data.

Yin, R.K., 1994. *Case study research: Design and methods* (2nd Ed.). Newbury Park, CA: Sage Publications.

## APPENDICES


Appendix A Ethics Clearance Letter_31 J


Appendix B EM Interview Guide.pdf


Appendix C Key Informants Consent F


Appendix D DCS Presentation 1.ppt


Appendix E DCS Presentation 2.ppt


Appendix F HSRC Letter of Introduction.


Appendix G DCS Letter of Introduction.

31 January 2022

To: Dr Sylvester Maphosa
Developmental Capable and Ethical State, DCES
Human Sciences Research Council
Private Bag X41
Pretoria,
0001
South Africa

Dear Dr Maphosa

**Ethics Clearance of HSRC Research Ethics Committee Protocol No REC 5/19/05/21: Socioeconomic Analysis of Electronic Monitoring in the Offender Management System of the Department of Correctional services, South Africa**

The HSRC REC has considered and noted your application dated 19 May 2021 and the resubmission 03 December 2021.

The Research Ethics Committee has noted your responses dated 03 December 2021 to the queries raised on 21 June 2021.

The conditions have now been met and the study is given full ethics Approval and research may begin as from 31 January 2022.

This approval is valid for one year from **(31 January 2022).** To ensure uninterrupted approval of this study beyond the approval expiry date, an application for recertification must be submitted to the HSRC REC on the appropriate HSRC form 2-3 months before the expiry date. Failure to do so will lead to an automatic lapse of ethics approval, which will need to be reported to study sponsors and relevant stakeholders.

Any amendments to this study, unless urgently required to ensure safety of participants, must be approved by HSRC REC prior to implementation.

Your acceptance of this approval denotes your compliance with South African National Research Ethics Guidelines (2015), South African National Good Clinical Practice Guidelines (2006) (if applicable) and with HSRC REC ethics requirements as contained in the HSRC REC Terms of Reference and Standard Operating Procedures, all available at http://www.hsrc.ac.za/en/about/research-ethics/documentation.

The HSRC REC is registered with the South African National Health Research Ethics Council (REC-290808-015). The HSRC REC has US Office for Human Research Protections (OHRP) Federal-wide Assurance (FWA Organisation No. 0000 6347).

We wish you well with this study.

Yours sincerely,

Professor T. Rossouw
Chair: HSRC Research Ethics Committee

# SOCIOECONOMIC ANALYSIS OF ELECTRONIC MONITORING IN THE OFFENDER MANAGEMENT SYSTEM OF THE DEPARTMENT OF CORRECTIONAL SERVICES, SOUTH AFRICA

## KEY INFORMANT INTERVIEW SCHEDULE

### Please Note:

**This interview schedule is designed to solicit information on the Socioeconomic Analysis of Electronic Monitoring (EM) in the Offender Management System of the Department of Correctional Services, South Africa.**

**The research aims to guide (1) institutional arrangement, and (2) policy and practice of electronic monitoring system as an alternative to imprisonment, including its legal basis, management, effectiveness, and opportunities for improvement. The information and data from this study will add to the body of knowledge regarding offender management system in the Department of Correctional Services, as well as establish and encourage equal participation, accountability and transparency among various sectors involved in alternatives to imprisonment and offender rehabilitation in South Africa.**

**The interview is conducted by HSRC in partnership with CSIR and DCS. The information collected will be used solely for the purpose of this study. Respondents are also guaranteed anonymity, confidentiality, and, participation in the study is voluntary.**

**Thanking you in advance for participating in the study, your time is much appreciated.**

**SECTION 1: BACKGROUND INFORMATION**

1. Date of interview : _____
2. Region : _____
3. City : _____
4. Gender : _____
5. Race : _____
6. Age Range:

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| 18-25 | | 26-35 | | 36-45 | | 46-55 | | 56-65 | | 66+ | |

7. Current position : _____
8. Name of the Department where post is held : _____
9. Duration in this position : _____

**SECTION 2: INTERVIEW QUESTIONS**

**What is Electronic Monitoring (EM)?**
**Electronic Monitoring is an electronic system that provides the Department of Correctional Services (DCS) officers a report about whether the offender was available at home when the offender was required to remain at his/her home as well as for observing their movements into and around restricted areas. An electronic tag/bracelet (see attached pictures) is used as a form of surveillance worn by an offender mostly above the ankle as part of their probation or parole conditions. Therefore, an electronic monitoring programme combines intensive supervision in the community with a device that verifies that offenders are at designated locations during specified time periods. In South Africa, EM is used to address overcrowding in correction centres while reducing reoffending and enabling desistance from crime and monitoring compliance of offenders.**

**Please note that EM is NOT cameras for visible tracking of offenders. It is NOT Closed-circuit television (CCTV), also known as video surveillance, is the use of video cameras to transmit a signal to a specific place, on a limited set of monitors.**

10. Do you think this intervention will work?

10 a) If YES why?
10 b) If NO why?

11. How will electronic monitoring enable the offence-related needs of the offender to be met?

12. In your view, how will electronic monitoring contribute to the reduction of crime in the community?

13. What are the legal safeguards in place for protecting the human rights of the offender?

14. Does your region engage external actors to your department/organisation in the processes of alternatives to imprisonment and social reintegration-related policy/ intervention design, implementation and evaluation?

14a. How efficient is this process and what steps could be taken to improve engagement?

14b. Are there any factors inhibiting their engagement and what concrete steps could be taken to improve multi-stakeholder engagement in the successful design and implementation of electronic monitoring intervention?

15. Is there a mechanism or structure for coordinating responses to non-custodial offender management in South Africa?
*For instance:*

- *between different departments within your region (horizontal, between different departments or offices within the same DCS region)*
- *between your region and other localities in the country (e.g. other facilities and/or actors, etc.)*
- *between different levels of government (vertical, between local, regional and national governments)*

15a. How could this mechanism be strengthened to encourage a greater level of coordination?

15b. What are the factors inhibiting vertical and/or horizontal coordination between different actors and what steps could be taken to overcome these?

16. Does your region allocate or channel financial and human resources to alternatives to imprisonment in offender management including coordination mechanisms?

16a. Have these efforts been institutionalised within specially mandated working groups, policies or laws?

16b. How could greater sustainability be secured?

16c. Are there any barriers inhibiting the allocation of such resources and development of such laws or policies and could any concrete steps be taken to secure these?

17. Who are the key stakeholders that your organisation would need to engage to ensure coordinated social reintegration of offenders on non-custodial sentences and electronic monitoring?

18. Do organisations that help ex-offenders, parolees and probationers' integration into community and labour market, in your region have the skills and competencies necessary to meet the needs of offenders, victims of crime, and restoring family relations in addition to equipping offenders with skills necessary for reintegration back into society upon release?
*For instance:*

- *cultural and gender sensitivity*
- *knowledge of offenders' rights*

- *knowledge of the national policy framework governing offender management and rehabilitation*
- *knowledge of living conditions and challenges faced by offenders and their families and how these experiences of women and men might differ*

18a. How can it be ensured that these capacities remain up-to-date and, if applicable, rolled out to other local actors?

18b. Are the training methods of rehabilitation and social reintegration used the most effective?

18c. What are the most critical skill gaps that exist and how could these be addressed?

**INFORMATION SHEET AND CONSENT FORM**

**(For Key Informants)**

**Socioeconomic Analysis of Electronic Monitoring in the Offender Management System of the Department of Correctional services, South Africa**

**Who we are**
Hello, I am _____. I work for the Human Sciences Research Council (HSRC).

**What we are doing**
We are conducting a study on the use of electronic monitoring for offenders in South Africa. This research involves conducting an interview with you to obtain your assessment of the intervention.

**Your participation**
Your participation is totally voluntary. If you decline to participate or discontinue participation at any time, it will not result in a penalty or loss of social benefits. Your participation will require about 1 hour of your time.

**Confidentiality**
We ask permission for audio-recording. Your name or any other personal identifiers will not be recorded. Confidentiality will be maintained to the extent allowed by law; this consent form will not be attached or associated with any recorded information that you provide. The answers that you provide will be stored electronically and will be used for research or academic purposes now or at a later stage in ways that will not reveal who you are.

**Risks and Benefits**
You were selected to participate in the study because you are a member of this community. There are no reasonably foreseeable risks, discomforts, or direct benefits to your participation. Further, your specific name and identity will not be used directly in any write-up. This study will be helpful to improve the health of offenders and the conditions of community relationships in which parolees live and reintegrate.

**Who to contact if you have been harmed or have any concerns**
This research has been approved by the HSRC Research Ethics Committee (REC). If you have any complaints about ethical aspects of the research or feel that you have been harmed in any way by participating in this study, please call the HSRC's toll-free ethics hotline 0800 212 123 (when phoned from a landline from within South Africa) or contact the Human Sciences Research Council REC Administrator during office hours (9.00am-5.00pm), on Tel 012 302 2012 or e-mail research.ethics@hsrc.ac.za.

If you have concerns or questions about the research you may call the Project Leaders, Prof SB Maphosa on 072 911 4788 or Dr TM Ramoroka on 082 0433 715 and/or the DCES Research Director DR TS Madzivhandila on 073 522 6776 (9.00am-5.00pm, Monday to Friday).

**CONSENT**
I hereby agree to participate in this study. I understand that I am participating freely and without being forced in any way to do so. I also understand that I can stop participating at any point should I not want to continue and that this decision will not in any way affect me negatively. I understand this study purpose is not necessarily to benefit me personally in the immediate or short term; and that my participation will remain confidential. Further, I am aware that the information that I provide will be stored electronically and will be used for research or academic purposes now or at a later stage in ways that will not reveal who I am.

**……..**
**Signature of participant** **Date**: ……..

# Electronic Monitoring in Community Corrections

Presentation to Portfolio Committee

Date: 04.03.2008

correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

# TABLE OF CONTENTS

# Acronyms

- **DCS** Department of Correctional Services
- **EM** Electronic Monitoring
- **GPS** Global Positioning System
- **GSM** Global System for Mobile Communications
- **ATD** Awaiting Trial Detainee
- **FMD** Field Monitoring Device
- **ICT** Information & Communication Technology
- **CSIR** Council for Scientific & Industrial Research
- **MTEF** Medium Term Expenditure Framework
- **ATD** Awaiting Trial Detainee
- **PTD** Personal Tracking Device
- **MATD** Management of Trial Detainee
- **A & R** Admission & Release
- **RDOMS** Remand Detainee & Offender Management System
- **SITA** State Information Technology Agency
- **IJS** Integrated Justice System

# HISTORICAL BACKGROUND

- **Department's Principled Position Statement**
  - Electronic Monitoring cannot be deployed primarily to alleviate overcrowding but encourage maximum community participation in crime prevention and rehabilitation
  - Department of Correctional Services believes that deployment of technology remains an enabler for improved service delivery

# HISTORICAL BACKGROUND

- **Previous Attempts to Deploy Electronic Monitoring**
  - Department of Correctional Services piloted electronic monitoring after introduction of parole & correctional supervision in 1999 (Pretoria area)
  - A further Feasibility Study was conducted in 2004
- **The Results of the Pilot and Feasibility Study**
  - The pilot supported the usefulness of the electronic monitoring, however
  - Pilot showed incarceration cost R14,75 and electronic monitoring R12,82
  - The Feasibility Study results showed that areas potentially covered by electronic monitoring could not match the offender population

# HISTORICAL BACKGROUND

- **The Results of the Pilot and Feasibility Study**
  - The study “on the available technology at the time showed that electronic monitoring was only effective in 26 % of urban areas and 19% of the rural areas in the country due to reliance on electricity and telephone lines”
- The current Department of Correctional Services position is informed by new technological evolution including Global Positioning System and Global System for Mobile Communications

# WHY WILL DEPARTMENT OF CORRECTIONAL SERVICES EMPLOY ELECTRONIC MONITORING

- **Electronic monitoring can be employed to assist in monitoring the following categories of persons;**
  - Probationers
  - Parolees
  - Offenders with Fines
  - Awaiting Trial Detainees (with or without Bail)
  - Day Parolees
  - Offenders Delivering Services to communities
  - Offenders on occasional leave

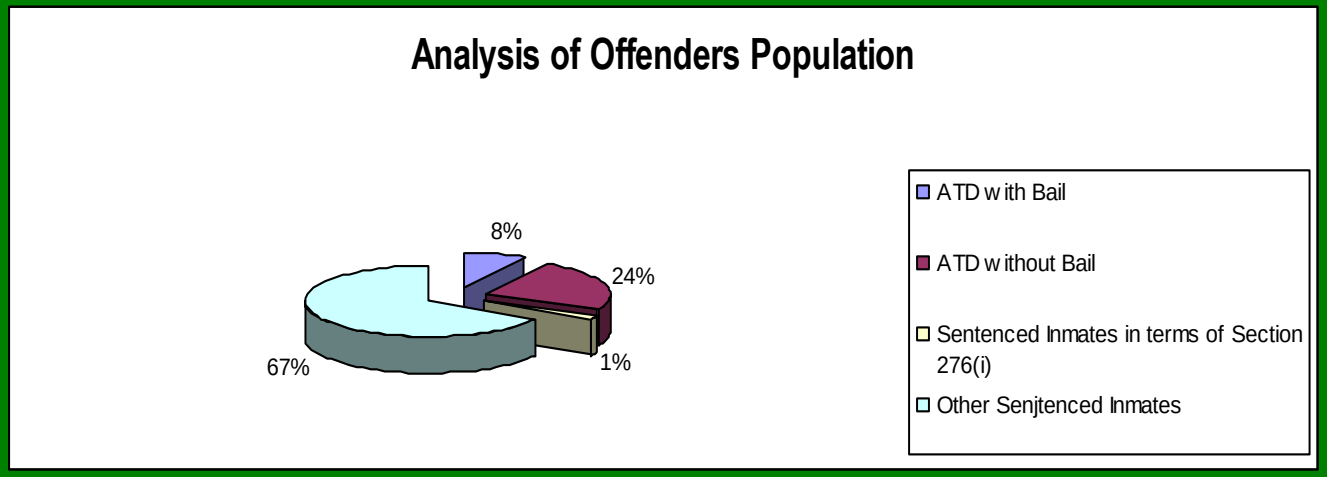
# Why Will Department of Correctional Services Employ Electronic Monitoring

- **Corresponding statistics**

| DAILY AVERAGE NUMBER OF OFFENDERS SUBJECT TO COMMUNITY CORRECTIONS DURING JANUARY 2008 | |
|---|---|
| Correctional Supervision diversion options from Court | **8833** |
| Conversions of incarceration into correctional supervision | **8069** |
| Awaiting trial under supervision | **1532** |
| **Sub-total: Correctional Supervision** | **18434** |
| Parole Supervision | **33709** |
| **TOTAL** | **52143** |

# SNAPSHOT OF OFFENDER POPULATION/COST

| Description | Population | Cost Per Month | Cost Per Year |
|---|---|---|---|
| ATD with Bail | 13122 | 50,034,186.00 | 589,112,190.00 |
| ATD without Bail | 39622 | 151,078,686.00 | 1,778,829,690.00 |
| Sentenced Inmates in terms of Section 276(i) | 2146 | 8,182,698.00 | 96,344,670.00 |
| Other Sentenced Inmates | 109734 | 418,415,742.00 | 4,926,507,930.00 |
| Current Prison Population | 164624 | 627,711,312.00 | 7,390,794,480.00 |




Cost per person per day = +/-R123.00

# WHY WILL DEPARTMENT OF CORRECTIONAL SERVICES EMPLOY ELECTRONIC MONITORING

- Reduce corruption and intimidation of Department of Correctional Services officials
- Enhance family stability and community involvement in rehabilitation
- Reduce prison population
- Afford Department of Correctional Services personnel more time for rehabilitation
- Research indicates potential savings
- May be a favoured option by the judiciary

# WHAT IS ELECTRONIC MONITORING AND HOW DOES IT WORK?

- **Basic system:**
  - A transmitter within anklet/bracelet attached to offender
  - Emits signals to a field monitoring device connected to a Communication System/Control Room
  - Field monitoring device register when offender moves outside of set boundaries / tamper with the equipment
  - Field monitoring device send alert to central control room for response

# WHAT IS ELECTRONIC MONITORING AND HOW DOES IT WORK?

- **Active monitoring system**
  - It is a system for monitoring an individual's movement and compliance to time/location parameters 24/7/365 in real time.
  - The unit is programmable to remember zones that are off-limits and areas where the offender is required to be at certain times

# WHAT IS ELECTRONIC MONITORING AND HOW DOES IT WORK?

- **Passive monitoring system**
  - It is also a system for monitoring an offender's movement and compliance with time/location parameters 24/7/365.
  - It continuously records location data throughout the day and is programmable to remember zones that are off limit.
  - At given intervals, the recorded information is downloaded to verify compliance.
  - Passive systems are usually cheaper than active systems and are ideal for applications that do not require immediate notification.

# WHAT IS ELECTRONIC MONITORING AND HOW DOES IT WORK?

- An ankle bracelet with a radio transmitter as a component that works with a Field Monitoring Device connected to a home telephone line
- A transmodal (transfer through skin) alcohol testing device
- A mini breathalyzer, measuring the offender‘s breath alcohol content. The unit identifies the offender using voice verification.
- Active Global Positioning System that utilizes an ankle bracelet

# EXAMPLES OF COUNTRIES WITH ELECTRONIC MONITORING

- Canada
- United Kingdom
- Australia
- New Zealand
- Singapore

# CHALLENGES

- Coverage and reach of ICT infrastructure
- Lack of electricity & telephone infrastructure
- Currently Department of Correctional Services does not have specific budget for implementation
- Offender stigmatisation arising from anklet / bracelet
- Public intolerance of people associated with criminal activities
- Lack of support systems & residential addresses where offender can be physically supervised
- Electronic Monitoring does not stop re-offending

# IMPLEMENTATION AND WAY FORWARD

- Partnership with CSIR
- Undertake Best Practice review
- Cost Benefit Analysis (equivalent of the Regulation 16 requirements)
- Complete the planning processes in time to allow for (inclusion in MTEF) budgeting for 2009/10

# STATUS REPORT INMATE TRACKING

Presentation to Portfolio Committee

Date: 04.03.2008

correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

# OBJECTIVES OF INMATE TRACKING

1. Decrease detention cycle time of Awaiting Trial Detainees.

2. Optimise the management of facilities and population.

3. Assist in security management within the detention facilities.

4. Support the following processes: Admissions, Releases, Roll Calls, Bail and Visitations within the broader IJS.

5. Support detainee scheduling processes.

# BRIEF BACKGROUND

- **The system's main purpose is to provide electronic tracking, including the biometric identification and verification of Awaiting Trial Detainees, within a Correctional Center.**

- **The system was identified and sponsored by the Integrated Justice System Cluster**

- **2 pilot sites (Durban Westville Medium A & JHB Medium A ) were identified.**

- **The system has been rolled out to both facilities at an initial value of R28m.**

# EVALUATION COMMITTEE MANDATE

1. The pilot project of the Inmate Tracking System had to be evaluated as per the Request for Proposal Tender Specification document.

2. The Commissioner sanctioned the appointment of the Inmate Tracking System pilot Evaluation Committee.

2. The Committee evaluated the function, efficiency and sustainability of the system

# EVALUATION FINDINGS

1. **Johannesburg Medium A Correctional Centre:**

   a. **Fully operational as per the tender specification and has proved to be successful in many areas as per the tender specifications, despite the challenges noted.**

2. **Durban Medium A Correctional Centre:**

   a. **The biometric identity verification functionality is being fully utilised and is of great value to the Correctional Centre.**
   b. **Mismanagement of stock and some of the PTDs were lost**

# FINDINGS OF THE INVESTIGATION INTO MISSING PTDS

- Findings
  - The then Area Commissioner was not cooperative with investigations
  - 3236 PTDs unaccounted for (R2,7m)
  - Some were discovered after investigation
- Recommendations
  - Unaccounted PTDs be written off
  - No one be held accountable – inmates doings
  - Disciplinary steps be taken against Area Commissioner

# EVALUATION FINDINGS

1. The Inmate Tracking System at JHB Med A satisfies the project objectives – proven to be valuable and beneficial.

2. The identity verification functionality is readily deployable to other Correctional Centres & can be used independent of the broader Inmate Tracking System.

3. The Inmate Tracking System generates added value spin-offs, not only in terms of the ATDs but can also be utilized with sentenced offenders.
4. The PTDs used are inefficient, non-durable, bulky and therefore unsustainable
5. Involvement of local management and staff critical for effective roll-out of the project
6. Component suppliers and procurement difficult to manage

# RECOMMENDATIONS

1. The identity verification functionality be sustained at Durban & Johannesburg Medium A Correctional Centres.
2. The Inmate Tracking System project at JHB Med A Correctional Centre be extended for an additional 12 months with its full functionality, to bridge the identified gaps
3. Roll-out the Identity verification to 11 centres with higher ATD population
4. Develop local prototype of personal tracking device

# CURRENT STATUS

- Personal Tracking Device Development
  - A User Requirements Specification has been completed for both the Development of the Prototype and the Integration of the Biometrics Identification and Verification Mechanism into the A&R.
  - SITA is finalizing requirements for the Magic software and the tender process will ensue before the end of the financial year

# CURRENT STATUS

- Identity Verification Roll-out
  - The sites identified and correspond with the MATD project (and video arraignment) sites
  - Roll-out awaits completion of integration and upgrade of A&R

# WAYFORWARD

- Integrate Biometric Identity verification into A&R and RDOMS completed
- Roll out ID verification to 11 big sites – beginning of new financial year
- Testing new prototype for new generation PTDs in Jo'burg Medium A

# THANK YOU

**Renewing our Pledge:**
**A National Partnership to Correct, Rehabilitate and Reintegrate Offenders for a safer and secure South Africa**


correctional services

Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

# PRESENTATION ON 2ND QUARTER PRELIMINARY PERFORMANCE REPORT (2015/2016)

## BY
## CDC: STRATEGIC MANAGEMENT
## 18 November 2015

# PRESENTATION OUTLINE

- Background and Purpose
- Analysis of the 2nd Quarter Departmental Preliminary Performance during 2015/16
  - Performance rating
  - Departmental Performance
  - Performance per Programme
- Conclusion

# BACKGROUND AND PURPOSE

- **To review performance of the department against the approved Annual Performance Plan (APP) 2015/2016 as stipulated in the relevant legislation and frameworks**
- **In 2015/2016, DCS has 41 Performance Indicators and 48 targets.**
- **To provide analysis of the Departmental Preliminary performance information during 2nd Quarter**
- **Performance will be measured against 37 targets as 11 targets are measured annually/per academic year**

# ANALYSIS OF THE 2ND QUARTER DEPARTMENTAL PRELIMINARY PERFORMANCE DURING 2015/16

# PERFORMANCE RATING ACCORDING TO RED, AMBER, GREEN (RAG) STATUS

- **Performance rated according to 3 categories only**

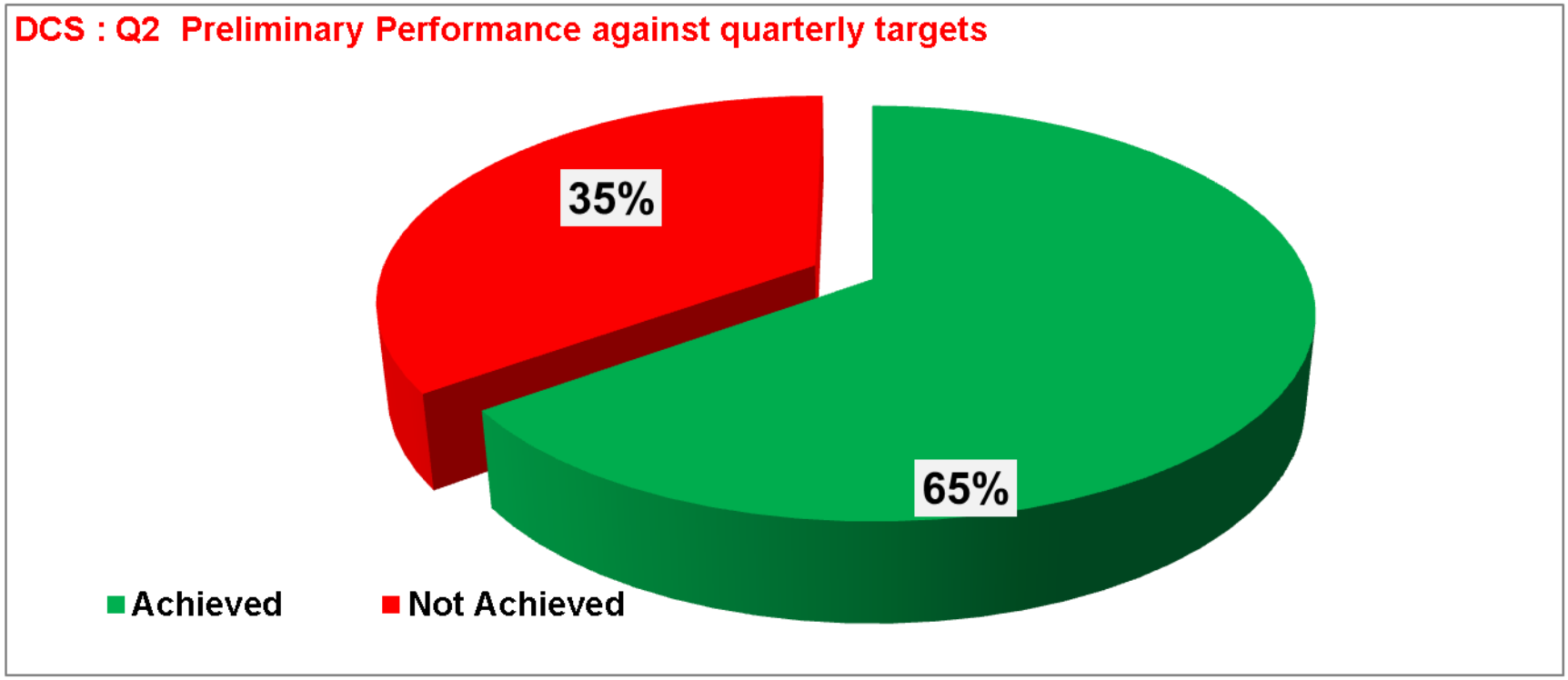
Achieved ( Where performance information indicates achievement)

Target not achieved

Target measured annually /per academic year.

# PERFORMANCE INDICATORS 2015/16 = 41

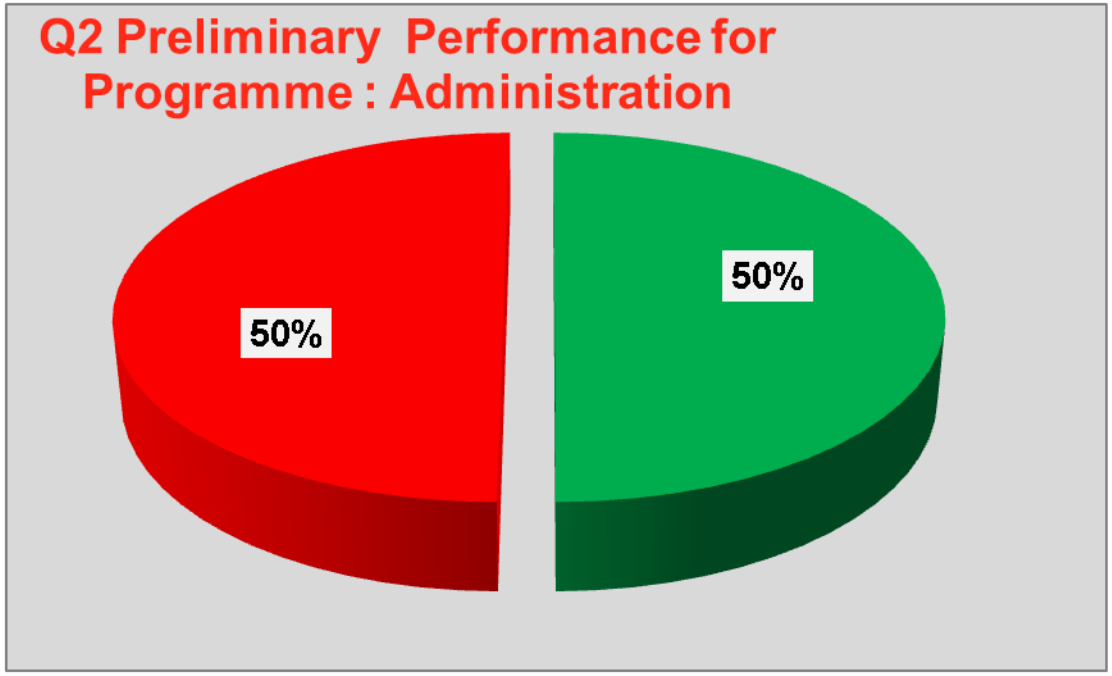
| Total No of Quarterly targets | Achieved | Not Achieved | Target measured annually /per academic year |
|---|---|---|---|
| 48 | 23 | 14 | 11 |
| 37 | 24 | 13 | |



# PERFORMANCE PER PROGRAMME

# PROGRAMME 1: ADMINISTRATION – 50% Targets Achieved

| Sub Programme | Total No of Quarterly targets | Achieved | Not Achieved | Target measured annually /per academic year |
|---|---|---|---|---|
| Management | 9 | 3 | 5 | 1 |
| Finance | 2 | - | - | 2 |
| Corporate Services | 3 | 2 | - | 1 |
| Total | 14 | 5 | 5 | 4 |
| Quarter 2 Targets | 10 | 5 | 5 | |




**14 targets (Administration)**

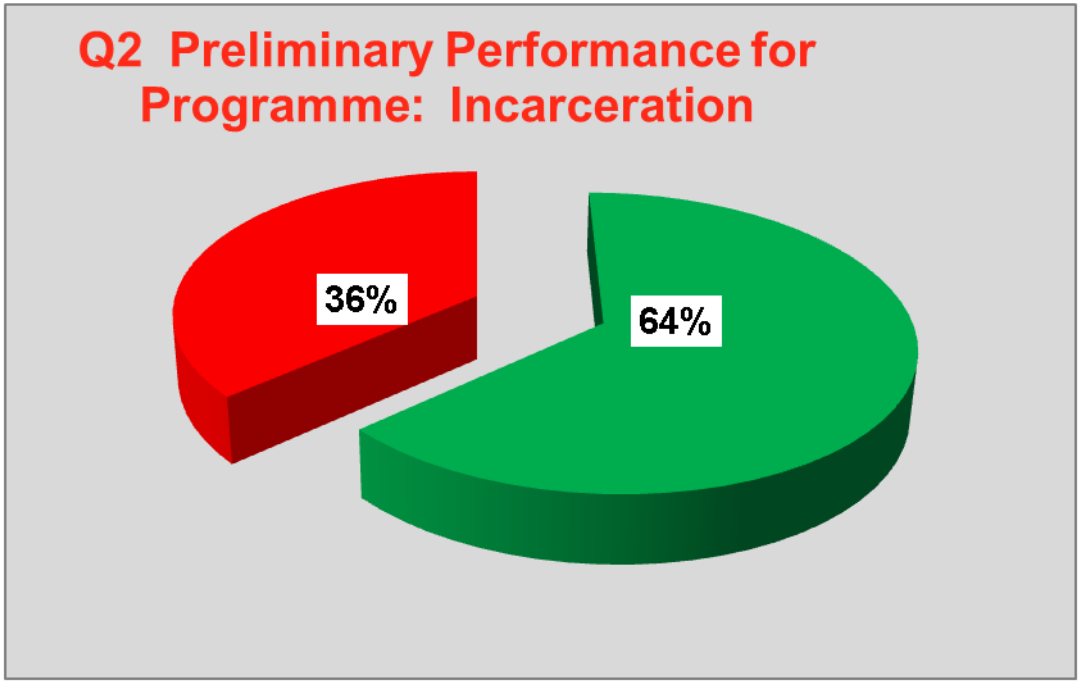
- 5 target – Achieved)
- 5 targets – Not Achieved
- **4 targets – Measured annually**

# PROGRAMME 1: ADMINISTRATION

| Sub Programme | Performance Indicators achieved | Performance Indicators Not Achieved | Performance Indicators Measured Annually |
|---|---|---|---|
| **Management** | - Percentage of finalised legal cases successfully defended by DCS.<br>- Percentage of Correctional facilities including PPPs inspected on the conditions and treatment of inmates<br>- Percentages of Unnatural deaths reports received from the DCS analyzed and feedback provided to stakeholders within 30 days | - Percentage of surveyed people rating correctional services performance positively<br>- Integrated communication and marketing strategy developed and implemented.<br>- Percentage of officials found guilty of corrupt activities<br>- Percentage of correctional facilities and community corrections offices where Integrated Inmate Management System (IIMS) and LAN Infrastructure is rolled out<br>- Percentage of Server and VOIP Infrastructure rollout to correctional centres and Community Corrections Offices | - Percentage of security VPN upgrade to correctional centres |
| **Finance** | | | - Percentage of allocated budget spent per year<br>- Number of audit qualifications |
| **Corporate Services** | - Number of officials trained in line with the WSP<br>- Percentage of Management Areas where IEHW programme is rolled out. | N/A | Percentage of funded post filled per financial year |

# PROGRAMME 2: INCARCERATION- 64 % Targets Achieved

| Sub Programme | Total No of Quarterly targets | Achieved | Not Achieved | Target measured annually /per academic year |
|---|---|---|---|---|
| Security Operations | 3 | 1 | 2 | - |
| Facilities | 2 | 0 | - | 2 |
| Remand Detention | 7 | 6 | 1 | - |
| Offender Management | 1 | 0 | 1 | - |
| Total | 13 | 7 | 4 | 2 |
| Quarter 2 Target | 11 | 7 | 4 | |




**13 Targets under Programme: Incarceration**

- 7 targets – Achieved
- 4 targets – Not Achieved
- **2 Measured Annually**

# PROGRAMME 2: INCARCERATION

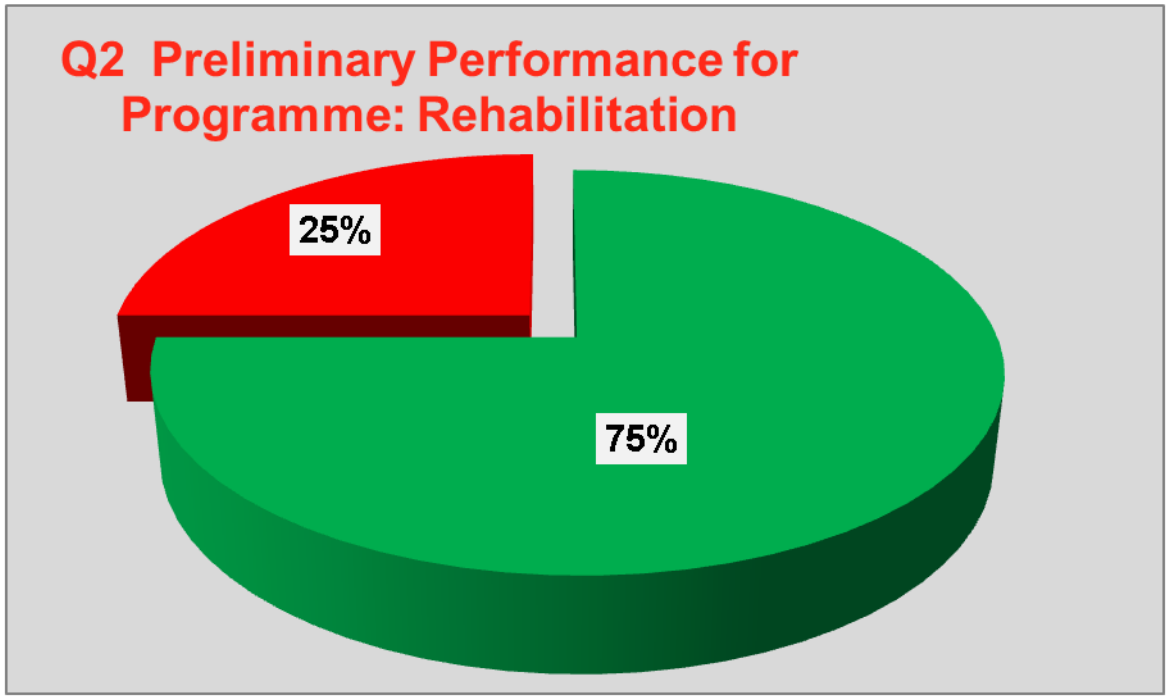
| Sub Pro-gramme | Performance Indicators achieved | Performance Indicators Not Achieved | Performance Indicators Measured Annually |
|---|---|---|---|
| **Security Operations** | - Percentage of unnatural deaths in correctional and remand detention facilities per year | - Percentage of inmates who escape from correctional and remand detention facilities per year<br>- Percentage of inmates injured as a result of reported assaults in correctional and remand detention facilities per year | |
| **Facilities** | | | - Number of new bed spaces created through construction of new facilities<br>- Number of new bed-spaces created by upgrading of existing facilities |

# PROGRAMME 2: INCARCERATION

| Sub Programme | Performance Indicators achieved | Performance Indicators Not Achieved | Performance Indicators Measured Annually |
|---|---|---|---|
| **Remand Detention** | Operational Policies aligned with the White Paper on Remand Detention implemented and monitored in Remand Detention Facilities<br>- Draft policy on remand detention management consulted with the National Management Committee (NATMANCO)<br>- Draft procedure manual on disciplinary system consulted with NATMANCO<br>- Draft procedure manual on privilege system consulted with NATMANCO.<br>- Draft procedure manual on application for bail review consulted with three regions (Limpopo, Mpumalanga and North West, Western Cape and Free State and Northern Cape).<br>Percentage of Remand Detention facilities where Continuous Risk Assessment (CRA) is rolled out | - Draft procedure manual on the administration of state patients consulted with three regions (Limpopo, Mpumalanga and North West, Western Cape and Free State and Northern Cape). | - N/A |
| **Offender Management** | - N/A | - Percentage of overcrowding in correctional centres and remand detention facilities in excess of approved capacity | - N/A |

# PROGRAMME 3: REHABILITATION - 75 % Target Achieved

| Sub Programme | Total No of Quarterly targets | Achieved | Not Achieved | Target measured annually /per academic year |
|---|---|---|---|---|
| Correctional Programmes | 1 | 1 | 0 | - |
| Offender Development | 5 | - | - | 5 |
| Psychological , Social and Spiritual Services | 3 | 2 | 1 | - |
| Total | 9 | 3 | 1 | 5 |
| Quarter 2 Target | 4 | 3 | 1 | |




**9 Targets under Programme: Rehabilitation**

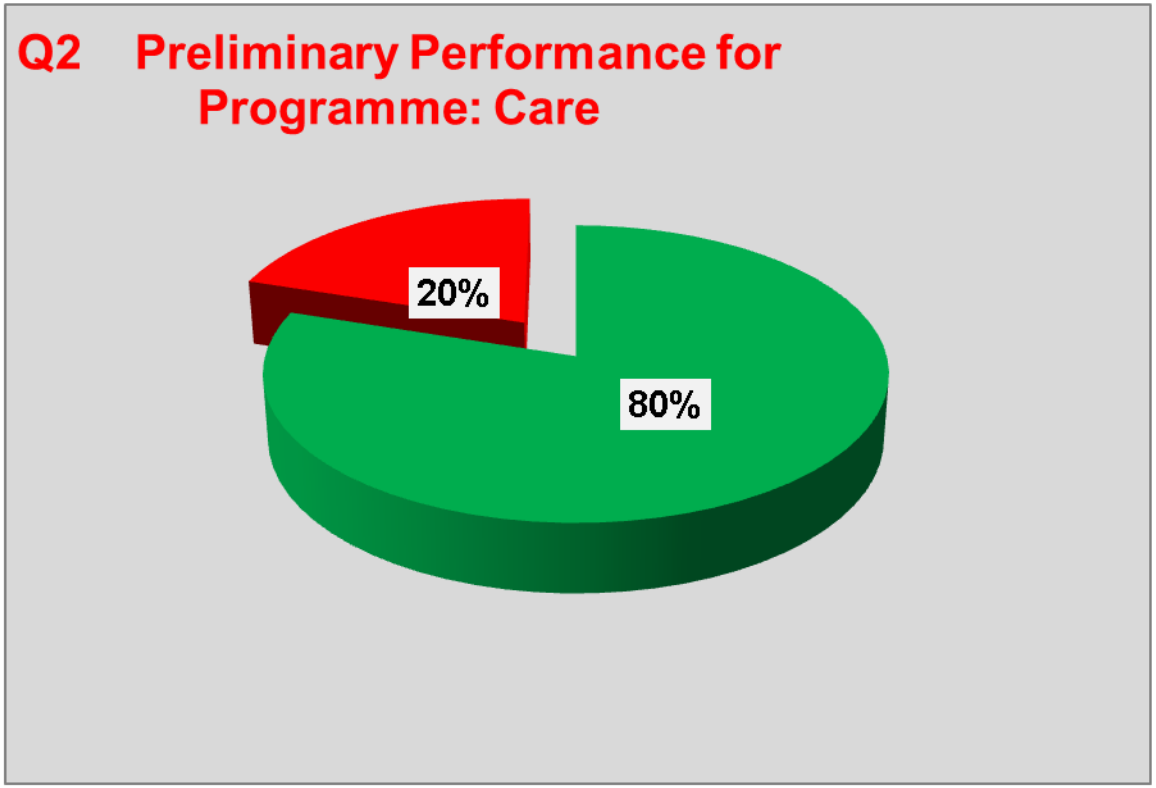
- 3 targets – Achieved
- 1 target – Not Achieved
- 5 targets – Measured Annually /academic year

# PROGRAMME 3: REHABILITATION

| Sub Programme | Performance Indicators achieved | Performance Indicators Not Achieved | Performance Indicators Measured Annually/Per Academic Year |
|---|---|---|---|
| **Correctional Programmes** | - Percentage of sentenced offenders subjected to correctional programmes per year | - N/A | - N/A |
| **Psychological, Social and Spiritual Services** | - Percentage of inmates who are involved in psychological services per year<br>- Percentage of inmates who benefit from spiritual services | - Percentage of incarcerated offenders and those sentenced to Correctional Supervision who are involved in Social Work services per year | - N/A |
| **Offender Development** | | | - Percentage of offenders who participate in skills development programmes measured against the list of offenders registered for participation as per enrolment register<br>- Percentage of offenders who participate in skills development programmes measured against the list of offenders registered for participation as per enrolment register<br>- Grade 12 pass rate obtained per academic year |

# PROGRAMME 4: CARE – 80 %Targets Achieved

| Sub Programme | Total No of Quarterly targets | Achieved | Not Achieved | Target measured annually /per academic year |
|---|---|---|---|---|
| Health Services | 3 | 2 | 1 | - |
| Nutritional Services | 1 | 1 | 0 | - |
| Hygiene Services | 1 | 1 | 0 | - |
| Total | 5 | 4 | 1 | - |




**5 Targets under Programme: Care**

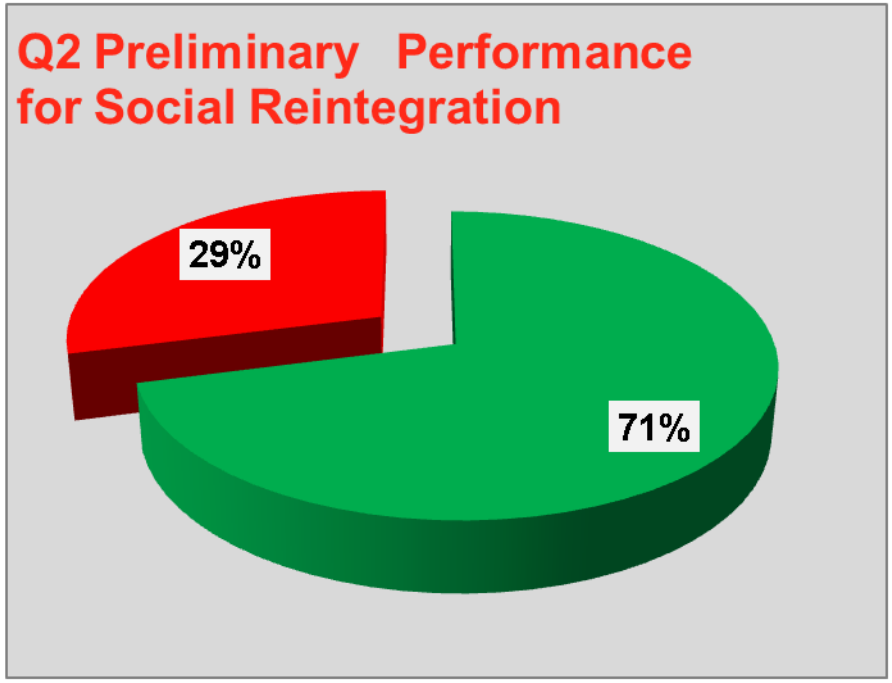
- 4 targets – Achieved
- 1 targets – Not Achieved

# PROGRAMME 4: CARE

| Sub Programme | Performance Indicators achieved | Performance Indicators Not Achieved |
|---|---|---|
| Health Services | - Percentage of inmates currently on Antiretroviral Therapy (ART) | - TB (new pulmonary) cure rate of offenders |
| | - Percentage of inmates tested for HIV who know their results | - N/A |
| Nutritional Services | - Percentage of therapeutic diets prescribed for inmates | |
| Hygiene Services | - Number of Management Areas with contracted health care waste services | |

# PROGRAMME 5: SOCIAL REINTEGRATION - 57% Targets Achieved

| Sub Programme | Total No of Quarterly targets | Achieved | Not Achieved | Target measured annually /per academic year |
|---|---|---|---|---|
| Parole Administration | 1 | 1 | 0 | - |
| Supervision | 3 | 2 | 1 | - |
| Community Reintegration | 2 | 1 | 1 | - |
| Office Accommodation | 1 | 1 | 0 | - |
| Total | 7 | 5 | 2 | - |




**7 targets under Programme : Social Reintegration**

- 5 targets – Achieved
- 2 targets – Not Achieved

# PROGRAMME 5: SOCIAL REINTEGRATION

| Sub Programme | Performance Indicators achieved | Performance Indicators Not Achieved |
|---|---|---|
| **Parole Administration** | - Percentage of offenders" profiles submitted by the Case Management Committee (CMC) that were considered by CSPBs | - N/A |
| **Supervision** | - Percentage of parolees without violations per annum | - Percentage of persons (parolees, probationers and awaiting trial persons) placed under the electronic monitoring system |
| | - Percentage of probationers without violations per annum | - N/A |
| **Community Reintegration** | - Percentage of parolees and probationers reintegrated back into communities through halfway House partnership | - Number of Victims/offended, parolees and probationers who participated in Restorative Justice programmes (VOM, and VOD) |
| **Office Accommodation** | - Number of new service points established in community corrections | - N/A |

# CONCLUSION

- The presentation only focused on Q2 preliminary performance information
- Department is still going to verify and validate performance information submitted.
- For targets not achieved, there will be remedial measures to ensure that targets are achieved by the end of the financial year
- Mid-term review session to be conducted towards the end of November to further validate what was submitted
- Q2 actual performance information will be submitted when submitting Q3 preliminary report (*in line with DPME Reporting Guidelines)*

# THANK YOU

March 23, 2022

Dear Distinguished Stakeholder,

**SOCIOECONOMIC ANALYSIS OF ELECTRONIC MONITORING IN THE OFFENDER MANAGEMENT SYSTEM OF THE DEPARTMENT OF CORRECTIONAL SERVICES, SOUTH AFRICA**

The Human Sciences Research Council (HSRC) is conducting research targeted at **socioeconomic analysis of electronic monitoring in the offender management system of the Department of Correctional Services in South Africa.** The study specifically has the following objectives:

a) To trace the evolution of electronic monitoring in offender management and analyse what electronic monitoring entails in South Africa.
b) To assess the coordination between community corrections agencies and the community, including state and non-state actors providing services to offenders and ex-offenders and other community groups.
c) To identify and describe ways in which digital technologies in South Africa can leverage reconciliation between offenders, victims of crime, and restoring family relations in addition to equipping offenders with skills necessary for reintegration back into society upon release.
d) To assess the cost-effectiveness and benefit-cost of electronic monitoring in offender rehabilitation and management programme benefits in changing offending behaviour.

The research aims to guide (1) institutional arrangement, and (2) policy and practice of electronic monitoring system as an alternative to imprisonment, including its legal basis, management, effectiveness, and opportunities for improvement. The information and data from this study will add to the body of knowledge regarding offender management system in the Department of Correctional Services, as well as establish and encourage equal participation, accountability and transparency among various sectors involved in alternatives to imprisonment and offender rehabilitation in South Africa.

We have identified you as a key stakeholder for the study and we are therefore soliciting your support for the study as well as your assistance in directing us towards stakeholders that you feel would be important to liaise with in the area as we proceed with the study. Your views are critical in the successful design and implementation of electronic monitoring intervention because if not all key actors are involved and considered when developing such interventions, important viewpoints are likely to be excluded and implementation will be difficult due to a lack of buy-in and enthusiasm.

We thank you in anticipation of your support. If you have concerns or questions about the research you may call the Project Leaders, Prof SB Maphosa on 072 911 4788 or Dr TM Ramoroka on 082 0433 715 and/or the DCES Research Director Dr TS Madzivhandila on 073 522 6776 (9.00am-5.00pm, Monday to Friday).

Kind regards,

Professor Charles Hongoro
Strategic Lead (DED): Peace and Sustainable Security (PaSS)
Developmental, Capable and Ethical State Division
Human Sciences Research Council
134 Pretorius Street, Pretoria, 0001, South Africa
Private Bag X41, Pretoria, 0001, South Africa
**Office:** +27 12 302 2250 **(Cell-work):** +27 66 006 5123
Extra-ordinary Professor (Health Economics/ Systems/Policy), University of Pretoria
Extra-ordinary Professor (Research), Faculty of Science, Tshwane University of Technology

correctional services
Department:
Correctional Services
REPUBLIC OF SOUTH AFRICA

Private Bag X136, PRETORIA, 0001 Poyntons Building, C/O WF Nkomo and Sophie du Bruyn Street, PRETORIA
Tel (012) 307 2000, Fax (012) 307 2000

Inquiries: Mr J. Mekgwe Email: Jonas.Mekgwe@dcs.gov.za Tel: 012 307-2692/2311

**TO WHOM IT MAY CONCERN**

**Re: AUTHORIZED RESEARCH INTO THE SOCIO-ECONOMIC IMPACT ANALYSIS OF ELECTRONIC MONITORING IN SOUTH AFRICA ON BEHALF OF DEPARTMENT OF CORRECTIONAL SERVICES (DCS)**

This letter serves as authorization for the Human Science Research Council (HSRC), to conduct research surveys, on behalf of the Department of Correctional Services into the socio-economic impact analysis of electronic monitoring in South Africa.

For background purposes, parole is an internationally accepted principle which is used in most countries to conditionally release offenders into the community before the expiration of sentence. The aim of placing an offender on parole is to acknowledge the offenders' compliance with the sentence plan in order to promote the rehabilitation of offenders and minimize the offender's risk of re-offending. To minimize the risk of re-offending, offenders are gradually reintegrated into communities. Parole placement is done following procedures stipulated in legislation, particularly the Criminal Procedure Act.

Therefore the Department of Correctional Services (DCS) has a need to electronically monitor parolees and various other categories of offenders by using location-aware bracelets. The need is informed by the fact that this solution will result in substantial savings for taxpayers by reducing the cost of keeping offenders in prison and easing overcrowding in the country's jails.

The whereabouts of these persons being tracked may be needed in DCS correctional centres, SAPS crime investigations, DSD detention centres, community areas and other places where they may need to be monitored whilst in rehabilitation. Similarly, the courts of justice may pursue electronic monitoring as an alternative sentencing option or bail conditions.

The HSRC, in collaboration with DCS and CSIR, will develop an electronic monitoring system that takes into account the South African operational environment. This will take into account legislation, socio-economic factors, and cost of ownership by the department.

Yours sincerely,

**TJT MEKGWE**
**(ACTING) CHIEF DEPUTY COMMISSIONER: GITO**
**DEPARTMENT OF CORRECTIONAL SERVICES**
**DATE:** 08/04/2022

# SOCIOECONOMIC ANALYSIS OF ELECTRONIC MONITORING IN THE OFFENDER MANAGEMENT SYSTEM OF THE DEPARTMENT OF CORRECTIONAL SERVICES, SOUTH AFRICA

A TECHNICAL RESEARCH REPORT
Presentation to:

THE COUNCIL FOR SCIENTIFIC AND INDUSTRIAL RESEARCH (CSIR)
AND
THE DEPARTMENT OF CORRECTIONAL SERVICES (DCS)

**Presented by**
**Human Sciences Research Council (HSRC)**
**Peace and Sustainable Security (PaSS) Programme**
**Developmental, Capable, Ethical States (DCES) Division**
**Private Bag X41**
**Pretoria, 0001**
**REPUBLIC OF SOUTH AFRICA**

science & innovation
Department:
Science and Innovation
REPUBLIC OF SOUTH AFRICA

HSRC
Human Sciences
Research Council

# AIMS OF THE PRESENTATION

Based on TOR CSIR_HSRC_EM_RESEARCH, this presentation outlays summary of the research report to:

- Provide analysis EM in South Africa including the legal and human rights implications of new technologies as well as sociological and financial perspectives in access to justice and crime prevention.
- Provide insights to the design of a local EM solution by CSIR.
- Outline recommendations for DCS on successful implementation and sustainability of EM in community corrections.

# OBJECTIVES OF THE STUDY

1. To consider EM as an alternative option when considering sentencing or granting bail applications, etc., suggesting possible amendments to legislation and/or policymaking.
2. Establish the feasibility of EM and its effective implementation and benefits realization in South Africa from a human factors and organizational perspective.
3. To provide an understanding of the sociological aspects of the use of technology to reintegrate citizens into society, possibly between offenders and their respective communities, families and/or victims (e.g. victim protection, family violence, work productivity devices).
4. Provide a robust financial perspective, taking into account the socio-economic considerations of implementing EM versus not implementing EM.

# LITERATURE REVIEW

- It is in the period immediately after release that inmates face tremendous personal, economic and social challenges.
- The White Paper on Corrections in South Africa 2004, acknowledged the importance of offender reintegration and consequently framed rehabilitation as the core business of the DCS.
- Further, it acknowledged ‘corrections’ is a ‘societal responsibility’. In this milieu, it is necessary to ask ‘what works’ and ‘how does it work’ in order to provide tools to help understand such notions as crime desistance, (re)integration, trajectories, and intersectionality to successfully reintegrate offenders into the community and avoid relapse into criminal behaviour.

# TOR OBJECTIVE 1

- The mandate of the DCS is to ensure that all people in South Africa are and feel safe.
  - The Department must ensure that the inmate population is kept in a secure, safe and humane environment. It further has to provide rehabilitation and successful re-integration programmes.
  - This is in line with the Correctional Services Act 111 of 1998 (CSA) as amended; the Criminal Procedure Act 51 of 1977 (CPA) as amended; the 2005 White Paper on Corrections; and the 2014 White Paper on Remand Detention Management in South Africa, which requires the Department to contribute to maintaining and promoting a just, peaceful and safe society.
  - In this context, EM is utilised as an additional condition to parole and not as an alternative or substitute for incarceration, as the CPA does not make provision for it to be a sentencing option.
  - It is therefore necessary to amend the CPA to make provision for EM as an alternative sentencing option.

# Limitations of Technology

It is necessary to ensure that EM is used in a way that is consistent with the evidence base of good practice, obtaining: working collaboratively and sharing information with stakeholders; including ongoing independent evaluation that informs continual improvement. Only when EM is combined with evidence-based interventions, will it be beneficial.

- **Public Risks and Risks to the Offender:** EM does not render additional offences impossible. There is one risk of harm that has been overlooked in most discussions on EM, namely, the potential risk of harm to the offender. The personal avenger who wants to assuage his personal thirst for vengeance might be inclined to do so if the offender is released from custody under an EM programme. However, this risk pertains to any ex-offender, whether or not subject to an EM programme
- **Profit-Driven Industry:** Companies developing EM technology and providing this service are not interested in establishing a criminal justice system that functions well, but rather governed by prudential reasons.

# Legal and Policy Frameworks

- The White Paper: The 2005 White Paper on community corrections arose out of 'need for a long-term strategic policy and operational framework that recognises corrections as a societal responsibility'. It also flowed from the need for the DCS 'to gear all its activities to serve a rehabilitation mission that ensures, through delivery of appropriate programmes, that the people who leave correctional centres have appropriate attitudes and competencies enabling them to successfully integrate back into society as law-abiding and productive citizens' (DCS, 2005: 7).
- Equally the White Paper posits the 'main challenge' for 'broader society as the restoration of cohesion at both the family and community levels of society. The degree of dysfunctionality at these levels has to be addressed if the rate of new convictions is to decrease'.
- The DCS, 'positioning itself as a tertiary level of intervention, is tasked with encouraging these basic societal institutions to recognise their strategic roles in nation-building in general and in correction in particular', thus places the work of the DCS firmly within the country's social milieu, with a fractured past and the damaged present bequeathed to it. Thus, 'correction is not a responsibility limited' to the DCS, but 'is a responsibility shared with society.
- The objectives of rehabilitation and reintegration firmly underpin values and rights enshrined in the Constitution'.
- The 2014 White Paper on Remand Detention Management acknowledges the DCS critical partners in implementation of community corrections.

- **Criminal Procedure Act 51 of 1977 (CPA):** Section 276(1)(h) of the CPA 'Nature of punishments' provides for the imposition of 'correctional supervision'. It is therefore evident that the CPA requires amendment in order to explicitly enable or facilitate EM of offenders.
  - Similarly, the CPA envisages bail for accused persons awaiting trial, but does not provide for the use of EM of accused persons awaiting trial. A plausible explanation for this gap in the law might be that EM entails a level of encroachment and intrusion into the rights to dignity and privacy that might be seen as inappropriate when a person hasn't yet been convicted of any offence.
  - On the other hand, if the loss of freedom is the only alternative, which is a realistic prospect given that many RDs remain in custody because bail is unaffordable, EM may be viewed as a viable and attractive alternative option. Consideration could therefore be given to making explicit provision for EM in respect of accused on bail.

**Correctional Services Act 111 of 1998 (CSA):** Similarly, the provisions of the CSA and its subordinate regulations clearly provide for ‘alternative’ or non-custodial sentences, including subject to electronic monitoring.

- Regulation 28 ‘Monitoring’ of the Correctional Services Regulations (CSR) is implicitly in favour or support of EM by focusing on their characteristics and impact, and provides that –

  (1) Electronic monitoring devices must be compact, un-obstructive and allow persons under community corrections as far as possible to carry out their normal daily activities.

  (2) The electronic monitoring device must be fitted to the ankle or wrist without causing a risk to the person’s health.

  (3) Electronic monitoring equipment may be installed in the residence and workplace of the person under community corrections or the victim.

# Selected Highlights in the Evolution of EM Policy and Practice

- **Electronic Monitoring in Community Corrections, 2008 –** indicating that 'Electronic Monitoring [EM] cannot be deployed primarily to alleviate overcrowding but [to] encourage maximum community participation in crime prevention and rehabilitation' and that 'deployment of technology remains an enabler for improved service delivery'.
- **Presentation on the EMS, 2015 –** The EM can be used at various stages of the criminal justice system / process, including pre-trial / awaiting trial, as a primary sentencing option and during parole, and is currently available for these purposes. The disadvantages acknowledged: wearing the EM device has its own psychological effects on offenders; wearing the EM device may stigmatise offenders, limiting their chances of securing employment; and, EM restricts the offender's movements.

- EM should indeed be a voluntary option, as informed consent by the offender would remove one of the obstacles monitoring personal movements that is, ordinarily, a restriction in the implementation of POPIA.
- Psychological effects that must be considered and come with EM for example stigmatization of the offender's being in the community.
- Therefore, offenders who choose to be on EM must be aware of these psychological effects and the limitations of their rights during EM monitoring.
- Therefore, EM should be a voluntarily option. If offenders are worried about their rights, those who don't take EM should know will spend all their life or time in jail.

- **DCS Strategic Planning Report 2018 –** ICT Branch identified EM and tagging and the mobile technology for post-release inmate support as some of the mechanisms being promoted to address overcrowding, while enhancing cost efficiency and effectiveness of corrections; but did not reference to the possible use of EM for awaiting-trial detainees who might be released on bail.
- **Procedure Manual on Supervision in Community Corrections –** Monitoring can take place in terms of the provisions of sections 52, 57, 62(f) and 68 of the CSA. Specifically, monitoring of 'offenders under the system of community corrections must be conducted in terms of Section 68' of the CSA, which can include EM where applicable.

- **Technological issues and resource implications:** There are issues with the operation of GPS monitoring, including its inability to maintain a continuous signal when there is no clear path between GPS satellites and tracking units. There can also be issues with accuracy and ‘false alerts’, which occur frequently. Monitoring personnel may find it difficult to ascertain which alerts are false and which ones are real and must be attended to.
- **Ethical and privatisation concerns:** governments should retain overall control and supervision of offender management, and either prohibit or carefully manage the privatised use of EM.

# TOR OBJECTIVE 2

- What is known about state and non-state stakeholders that need to cooperate for EM to be a success as well as the chains of command within these jurisdictions?
- Rehabilitation must be viewed as a whole phenomenon that includes and encourages social responsibility and social justice in order to prevent recidivism (DCS, 2005).
- The current community corrections treatment strategy is based on the Needs-Based Model, which systematically targets dynamic aspects linked to recidivism in the treatment of offenders' criminal behaviours. The DCS is in charge of providing and implementing needs-based rehabilitation programs for offenders who have been sentenced to prison by a court of law.
- Tokyo Rules emphasize the importance of multi-level intersectional collaboration and volunteers' contributions, particularly when they are properly taught and supervised, as well as the importance of assisting them in many ways.

# TOR OBJECTIVE 3

- What is known about digital technologies in the rehabilitation of offenders, and how technology can foster reconciliation between offenders and victims of crime, restoring family relations and equipping offenders with skills necessary for reintegration into society upon release?
- EM has an impact on offenders' lives, including their relationships with their spouses, significant others, children, wider family and friends. Some offenders report that EM helped them to improve their relationships because it enabled them to spend more 'quality time' with significant others and strengthen bonds or rebuild relationships after spending time in prison.

- EM can also negatively affect social relationships by increased tension and arguments between offenders and family members because the former spends too much time at home and oftentimes becomes a burden on family members. In addition, Kilgore et al. (2013) indicate that male offenders who come from a hyper-masculine prison context often need to adapt to a female-led household, which accentuates other gender-based problems.
- Hence real-time EM systems have shifted from offender-orientation towards increased focus on victim's needs, particularly their rights, voice and safety, and, illuminating the critical role played by corrections personnel and other professionals in ensuring that positive relationships are built and nurtured to support recovery. Further EM can lead to unfavourable working conditions. For instance, EM often generates restrictions and related monitoring that can potentially interfere with employment-related requirements.

# TOR OBJECTIVE 4

- For the purposes of this study based on the TOR, the focus of examination is on a cost-benefit analysis involving a comprehensive economic evaluation of all the costs and benefits associated with EM, including financial, environmental and social, and in terms of productivity.
- This approach places benefits and costs in comparable terms, usually Rands. Benefits that cannot be expressed in Rand terms cannot be compared and are included only for discussion. What is the value of EM programme, and the most economic use of resources?
- Non-monetary benefits and costs include:

A. **Reduced prison populations:** One major advantage of EM is a decrease in prison populations and overcrowding.

B. **Correctional officials will have less contact with offenders:** It can reduce the amount of contact time correctional officials need to have with each offender. This can lead to better allocation of available (and often limited) budgets, yielding efficiency and effectiveness gains for DCS.

C. **Recidivism:** There is no clear evidence in the literature on the positive relationship between the use of EM and recidivism (Regan, 2017). However, it must be noted that these findings may have been subject to error due to small sample sizes and restrictive inclusion criteria (Regan, 2017). Additional research must be conducted to strengthen the body of evidence of causality between EM and recidivism.

D. **Improved rehabilitation and integration into society:** Monitoring offenders using EM rather than incarceration enhances family stability (especially for offenders with children) and community involvement in rehabilitation .However, this might come with stigma from wearing the ankle bracelet and public intolerance from community members against having offenders allowed to live “free”.

E. **Improved physical and mental health of offenders:** Using EM to undertake surveillance and monitoring of parolees, probationers and detainees awaiting trial assists in preventing them from experiencing negative psychological effects from being (re)incarcerated. Offenders are also more likely able to access better healthcare, nutrition, and other basic resources outside correctional centres.

F. **Reduced incidences of in-prison violence:** EM can potentially decrease prison populations and protect offenders who may otherwise have been victims of physical and sexual violence, and disease transmission in prisons. The global prevalence of HIV and TB are higher in prisons than in general society (Dolan et al., 2016). Alternatively, it can be used to monitor offenders in correctional facilities, tracing them back to the exact place an in-prison incident has taken place.

G. **Protect victims from their offenders:** EM can be used to protect victims from their offenders by prohibiting them from coming within a certain distance of their victim(s). It is important to keep in mind, especially in South Africa, the propensity for corruption in all forms, from corrupt police officials to offenders trying to jam, block or spoof the system (Jackson et al., 2015). There will also be need for amendment to existing laws and policies aimed primarily at protecting victims of GBV. Implementing EM in this way will also mean an increase in administrative efforts and supervision.

H. **Administration and operation:** Even though EM is a digitised system, it continues to require substantial human oversight, and technological and administration requirements. Digitised supervision does not mean the absence of administration efforts. Information Communication Technology (ICT) infrastructure coverage and reach is also vital together with a stable electricity supply, systems that are to some extent lacking in South Africa.

# KEY FINDINGS AND CONCLUSIONS

- No technology is without drawbacks; all technologies can be thwarted.
- It is the people using the electronic tools, not merely the tools themselves that will accomplish the goals of community corrections.
- In and of themselves, tools accomplish little.
- In the hands of skilled corrections professionals, they provide valuable information for supervising offenders effectively, provided also that those professionals are supported by effective systems, reliable partnerships and adequate resources.

# Key Findings

## The Uses, Purposes and Impact of EM in South Africa

- This research identified no statistically significant effects on levels of crime or rates of offender recidivism.
- The findings demonstrated satisfactory confidence that EM can be used in South Africa to reduce overcrowding and minimize absconding of offenders from the corrections system.
- To some extent, EM can also reduce cost of incarceration if its costs are not more than those of housing the offenders in the correction centres.

## EM Technologies and Procedures Effective in South Africa

- The sustainable functioning of the devices, characterised by stable network connectivity was also a concern from most of the participants.
- The preferred devices must be designed in such a way that the offenders' safety is taken into consideration while assuring communities that the offenders are monitored so that their safety is equally respected.
- Therefore, a visible device that is well-known to communities and which is not easy to tamper with is recommended.

## Legal Safeguards Protecting the Human Rights of the Offender Under EM

- Different countries have diverse legal and justice systems, which reduces the replicability of international lessons. A critical issue established across all sites visited during this study reflected the challenge of the trade-off between the benefits of having more robust supervision of offenders and the additional burden it places on the courts, the police and probation services. However, from the law and the findings, it is clear that serving any sentence comes with some limitation of rights, and EM will not be an exception.
- Generally, the findings suggest that ‘offenders who participate in EM should clearly understand that some of their rights will indeed be limited while participating in the EM programme’.
- The rights of the offender, as well as the rights of the victim, the rights of the victim's family and the rights of the community will all be upheld by the terms and conditions that the offender must adhere to while participating in the EM programme.
- All of these rights must be taken into account and balanced against each other to produce a resulting set of limitations that are ‘reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors’, including those listed in the remainder of Section 36 of the Bill of Rights.

# The Contribution of EM to Successful Reduction of the Prison Population

- Although the findings generally agree that EM will reduce overcrowding within correctional centres, the concern is that the population will be transferred to community corrections.
- The community supervision teams in community corrections are very small and are understaffed.
- In addition, the study found risk in lack of continuity at senior management levels, with most officials at senior levels in the age range of 55+ years old. To ensure the principled practice of EM, it needs clear policy and targeting; specified standards of operation; and independent inspection.

## EM As an Enabler for Meeting the Offence-Related Needs of the Offender

- The findings suggest that EM will be an effective enabler for meeting the offence-related needs of offenders by assisting in avoiding reoffending and absconding.
- Although the offenders will further enjoy the benefits of serving their remaining sentences outside the correctional centres, rights and safety of communities including victims and their families must be respected.

## EM as a Cost-Effective Tool for Social Reintegration of Offenders

- The evidence base on the effectiveness of EM suggests that delivering a functioning EM service is only part of the challenge. The extent to which monitoring will benefit the Department, the criminal justice cluster, including offenders and society, depends on how far the DCS and courts decide to use it.
- Effectiveness also depends on the capacity of the probation services and SAPS, for instance, to respond to higher level of reported breaches and other incidents that a more powerful system and a more extensive programme could generate.
- There is a general agreement that EM is a cost-effective tool for social reintegration of offenders provided all necessary stakeholders are actively involved in the system, the necessary human resources and ICT equipment are provided and efficiently used.

## The Contribution of EM on The Reduction of Crime in Communities

- Although the findings demonstrate a great sense of support for the implementation of EM, the findings also reject the notion that EM will reduce crime in communities.
- Accordingly, EM will not prevent anyone from reoffending, as offenders can still commit crime with the devices on them.
- However, EM significantly reduces the likelihood of failure under community supervision and so demonstrates diminished potential for recidivism.

# From the critical cross cutting results, the following findings emerged:

## Skills and Capacity Building

- The management of relationships with intended users of the new EM service will be an area of particular weakness during the formative years of the roll-out.
- The extent of multi-levelled incapacities have not been formally informed of this new EM initiative; have not seen the new EM Policy; have not operated an EM service themselves; they have depended entirely on manual supervision. Their direct operational experience and understanding, particularly of location monitoring services using GPS, were limited.

## Limited Stakeholders Involvement

- The challenge of offender management and safe communities is a multi-sectoral problem. Thus, ‘correction is not a responsibility limited’ to the DCS, but ‘is a responsibility shared with society.

## Increased Workload for Community Corrections

- Tagging generates an additional workload of incidents for monitoring and investigation, more breaches of sentence conditions and, potentially, more recalls to prison than would have resulted from less exacting methods of supervision.
- Embedded within this challenge, DCS officials interviewed expressed profound concerns over a shortage of resources including vehicles and mobile phones.
- In addition, policy impediments exist around vehicle and firearm regulations, which require officials to surrender those resources each day at the end of their shift.

## Non-compliance by Qualifying Offenders

- For location monitoring, the need for offenders, including those with chaotic or difficult lifestyles or living conditions, to regularly recharge their tags, typically for up to one hour each day, remains a significant practical constraint. An important constraint therefore is whether the new local device will be “smart” and able to alert wearers that their battery is running low. Clearly, in these circumstances we observed some scepticism from most DCS officials about the scale of EM envisaged by the DCS in 2022.
- The upcoming pilot of the first GPS-enabled tags from CSIR should, if completed on the required scale and well-evaluated, provide more insight into the implications of expanded location tagging for the DCS’s community corrections, CSPB, SAPS and courts in terms of integrated offender management (IOM) principle and practice. In terms of the EM bracelet, the CSIR has already started engagements with the HSRC (research team) in preparation for this pilot evaluation to build such an evidence base for use in the DCS’s wider EM strategy.

# RECOMMENDATIONS